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Notable British Trials

Thurtell, John, defendant.

TRIAL OF THURTELL AND HUNT

edited by

Eric T. Watson

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PREFACE.

THE trial of Thurtell and Hunt is one of the best known in our criminal annals. It presented little enough of either mystery or romance. Yet it is important as a land-mark in our legal history for several reasons.

It was almost the last famous trial to take place under the old Tudor procedure, rightly described by the presiding judge as "inquisitorial." It was the first trial "by newspaper," and the first in which there was any very serious collision between the Bench and the Press as to the duties of the latter in relation to the detection of crime and its investigation.

Again, as I am reminded by the very experienced criminal lawyer to whom I have the honour to dedicate this book, it stands out with hardly a parallel as a murder undertaken with no other object but lucre, by several persons, unconnected by domestic ties. Aram and Miss Blandy, it is true, did not undertake their crimes single-handed, and in their cases too the incentive to the crime was mainly of a pecuniary character, and in a much more recent Scottish case, where the verdict was "not proven," the murderer, if murder was done, was not alone.

Yet to the criminologist any case of such a nature presents itself as a rarity in the psychology of murder. Such enormity of guilt as is implied in a cold-blooded, mercenary murder almost forbids the association of several for its accomplishment—the mutual confidence essential to criminal conspiracies would be lacking in men so utterly depraved.

I have to thank Messrs. Sweet & Maxwell for the kindly loan of Henry Dawe's engraving of Sir Alan Park, and my learned

friends Messrs. H. W. Greene, J. E. Y. Radcliffe, and W. B. Hextall for helpful suggestions in the matters of Archbishop Whately's reference to the murderer, Borrow's connection with him, and the ballad literature of the crime.

All, to whom the grim story has ever appealed, will look with interest at the sketches of the three villains, which have long lain in the portfolios of William Mulready in the Victoria and Albert Museum and have never previously been published or alluded to. Studied alongside of Mr. Herbert's description, they leave little doubt of their fidelity.

ERIC R. WATSON.

December, 1920.

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JOHN THURTELL.

INTRODUCTION.

"THE final purpose of murder, considered as a fine art," says de Quincey, "is precisely the same as that of tragedy . . . 'to cleanse the heart by means of pity and terror.' Now, terror there may be, but how can there be any pity for one tiger destroyed by another tiger?" Yet, observes the master critic, "The world in general, gentlemen, are very bloody-minded; and all they want in a murder is a copious effusion of blood; gaudy display in this point is enough for them."

To this base love of the vulgar for the merely horripilant element in murder must be attributed the immense reputation of Thurtell as a murderer and the inclusion of his name among the roll of the great departed in our Dictionary of National Biography.

The chance that threw him in the way of the elder Hazlitt and of George Borrow and so gave the world pen portraits of him beyond anything that the meagre powers of chap-book scribes could have afforded, has greatly helped, throughout these ninety years, to preserve from oblivion the memory of one of the sorriest ruffians in the chronicles of Tyburn.

Whatever the cause, no crime is richer in literary allusions. Between Archbishop Whately and Jemmy Catnach there is a great gulf fixed—moral, intellectual, social; the crime of Thurtell has bridged it. Famous names have been put forward in candidature for the honour of the authorship of some worthless doggerel adorning the execution broad-sides—in fact, written by a broken acrobat, later on transported for felony.

Probert's squalid cottage was visited by crowds of pilgrims, such as no hallowed shrine ever drew. Not the least eminent among the visitors to the scene of this ghoulish murder was the Wizard of the North himself. Bulwer threw the story into a chapter of "Pelham." Barnstormers brought down the house with "reconstructions" of the murder in the cheap haunts of melodrama, exhibiting the very "bald-faced horse" and dark green gig, which, with the pork chops that the murderers thrust between their gory lips at the supper and the execrable ballads, have become as much a part of our national

heritage as the memories of great deeds done on stricken fields or as the hero's fall in the hour of his country's glory, or the orator's in stemming the tide of debate in the Senate.

The wide and growing cult of Borrow, who chose to throw a false glamour over the fate of one of the most cynical and callous wretches who ever "died in his shoes" explains, perhaps, the lively and almost compassionate interest felt in the Gill's Hill tragedy to-day.

John Thurtell, like many another graceless scamp, was the son of well-to-do, pre-eminently respectable, God-fearing parents of the middle-class. He was born on 21st December, 1794, one of a large family, whose head, John Thurtell, senior, was a prosperous Norwich merchant, who lived on the outskirts of that provincial capital, near Harford Bridge, two miles to the southward.

He seems to have been the eldest son, and was, as the worst behaved child generally is, the favourite of his mother. He did not, it would appear, leave home to go to a boarding school, and may have received the rudiments of education at the Norwich Grammar School. Wherever he studied, he did so to little purpose, for at the age of thirty he was capable of writing, "I feel greatly oblidge."[1] He does not seem to have

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[1] See a facsimile letter in "Bell's Life," Feb. 15, 1824. Mr. Fitzgerald in his "Chronicles of Bow Street," assumes that Alexander Thurtell was the murderer's brother. He is described in "Gonville and Caius College Biographical History," ii. 197-8, as the son of John Thurtell, land surveyor, of Norwich, and as having been born at Bradwell, Suffolk, about 1805. John Thurtell of Bradwell, Suffolk, merchant, failed in Sept., 1882 ("Times," Sep. 18). This was not perhaps the murderer, who was at the time an undischarged bankrupt (*Post*, p. 14). These two and Charles Thurtell, midshipman on the *Aboukir* in 1811 (*Post*, p. 14), may have been the sons of John Thurtell, land surveyor of Norwich, and related to the murderer's family. There was also an Edward Thurtell in the Navy of about the same standing as John, only he was a sea officer, not a marine. Thurtell stated that one of his brothers was drowned ("Times," Jan. 10, 1824). Charles Thurtell at the time of the murder was lieutenant on the sloop *Chantecleer*. Alexander Thurtell had a most creditable record, being a scholar, senior fellow, Hebrew lecturer, and Moderator. Entering Holy Orders, he was appointed H.M.'s Inspector of Schools in 1847, and died Oct. 21, 1884. Mr. C. K. Shorter (*George Borrow and his Circle*, p. 119), appears to have been misinformed by a local antiquary that there was only one John Thurtell. There were probably four—the Norwich merchant, his son the murderer, the land surveyor, formerly of Bradwell and then of Norwich, and his son (?), who failed at Bradwell in 1822. It is far more likely that the subscriber to Borrow's *Romantic Ballads* (1826) was one of these two elder Thurtell's than the murderer, executed in January, 1824, and long a stranger to Borrow and Norwich. Mr. Shorter speaks of another brother of the murderer, George, of Eaton, near Norwich, who died in prison in 1848 under a sentence for theft (p. 120).

displayed the early depravity of a Cartouche, and his friend Borrow has preserved no worse instance of his evil tendencies at this period than the tying of a canister to a dog's tail.[2] Throughout life he was choleric, vindictive, generally silent in company, and with no conversation beyond bawdy and blasphemy, the "fancy" and the stage. His constitution was robust, his animal spirits high, and among his cronies he often showed great good humour, and was always free with his money.

Such being his disposition, an active career was determined on for him, and on 8th May, 1809, he received his commission as second lieutenant in Company 99 of Marines, whose head-quarters were at Chatham.[3] He proceeded thither, and spent a very brief period learning his duties on shore. There was then lying in the Medway, refitting, H.M.S. "Adamant," 50 guns, carrying the flag of Rear-Admiral Sir Edmund Nagle (D.N.B.), Captain John Sykes. Thurtell was added to her strength on 4th June, 1809.[4] After some uneventful cruises in home waters, in the Downs, off the Nore, and as far as the mouth of the Zuyder Zee, the vessel was ordered to North Britain as the Admiral's flagship in those parts, and for several years she lay moored in Leith Roads, with very occasional trips to sea. For a year after her arrival in the roads Thurtell remained one of her company, with no scope for honourable ambitions or for that display of courage in the face of death which lent his last moments a trace of unwonted, if theatrical, dignity. The lure of a great city, it may be, drew him, as often as he could get leave, to seek a questionable excitement among its least reputable haunts. At the end of August, 1810, Sir E. Nagle hauled down his flag, and was succeeded by Rear-Admiral William Otway, Matthew Buckle at the same time replacing Sykes in the command of the ship.[5]

On 16th July, 1811, John Thurtell, for some slight misdemeanour, the nature of which does not appear, was peremptorily discharged "by personal order of Rear-Admiral Otway," his place being taken by John Alexander, who came aboard in the "Eliza" tender.[6]

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[2] "The Romany Rye," ch. 42.

[3] Adm. Marine Commissions, 6/406.

[4] Muster Book, *H.M.S. Adamant*, Adm. ii./1879.

[5] Muster Book, *H.M.S. Adamant*, Adm. ii./2475.

[6] Muster Book, *H.M.S. Adamant*, ii./2476. Log of same ship under date 16 July, with entry, "Lieut. J. Alexander of the Royal Marines superseded Lieut. J. Thurtell."

Thurtell's next ship was the "Bellona," 74 guns, Captain J. E. Douglas, and later Captain George Mackinlay, on whose muster-roll he was borne as from 7th November, 1811, having been conveyed to that vessel, then at sea, on the "Theseus," 74 guns, to which he had been transferred from the "Monmouth."[7]

For several months after Thurtell joined her, the "Bellona" was uneventfully employed in home waters. I find no record of brave deeds in her logs, and she never fired a shot at an enemy or even chased a sail. Early in 1813 she was under orders to proceed in company with the "Theseus" and the "Niemen" to St. Helena to pick up a convoy of East Indiamen returning with the silks and spices of the Orient. On 19th March she sailed with the other ships from the island, and after a fair passage the merchantmen dipped their ensigns to her in the Downs, and she went to the Isle of Wight, dropping her anchor off St. Helen's.

For the next few months the ship was more actively employed; off Capes La Hogue and Barfleur and in the Basque Roads she frequently sighted the enemy and cleared for action. Soon after San Sebastian fell on 1st August, 1813, the "Bellona" was cruising near that port (on the day it fell the muster was called at St. Helen's, thus disproving the oft-repeated story of John's barbarous behaviour at the storming, to which, in indignant terms, he referred in his defence), and on 6th September she gave chase to two strange sail in heavy weather. They turned out to be a "brig of war" and a schooner, neither of which (a brig would only mount about 16 small guns, and the schooner, if armed at all, would have carried a yet slighter armament) could offer fight. The brig made good her escape, but the schooner was boarded and made a prize. This brush with the enemy seems to have been the sole foundation for all John's subsequent talk, both in his fustian from the dock and in his yarns with Borrow (see "The Romany Rye," chapter 42) of deeds of derring doe and moving accidents by flood and field.[8]

Returning once more to the channel, the "Bellona" proceeded to Portsmouth, where she formed part of Admiral Bickerton's command until she was paid off about 22nd February, 1814, when Thurtell went on half-pay with "temporary rank"

[7] Muster Book, *H.M.S. Bellona*, Adm. ii./3317.

[8] "Captains' Logs," the *Bellona*, 1811-1814. Adm. Rec.

as second lieutenant until he resigned his commission in June of that year.[9]

No colour is given by the Marine Commissions List for 1814 to Borrow's suggestion (put into the mouth of Jack Dale in "The Romany Rye") that "He got into a scrape and lost his half-pay." I find against his name nothing more than the words in red ink, "Resigned his commission, June, 1814." Nothing appears against his conduct as an officer on the "Bellona," and the captain gave him a good character at the trial; entirely mythical also is a story, circulated in the *Times* on 8th November, 1823, that he was guilty of insubordination aboard the "Aboukir."

Thurtell, still a minor, seems to have returned to Norwich and to have lived at home. Soon after he attained his majority his father, with ill-requited liberality, established him in business as a bombasine manufacturer in partnership with one Joe Giddens; and not much later he set up another son, Thomas, as a farmer in a considerable way, his rent being no less than £800 per annum.[10] John's attention was greatly weaned from his business by the superior attractions of "The Fancy" and the society of raffish and disorderly persons. He became acquainted with two scamps named Bullen and Bagshawe, afterwards associated with him in frauds. He formed a more reputable friendship with the stout and straightforward pugilist, Ned Painter, nicknamed "Flatnose," whose brawny person drew all the countryside on market days to The Anchor, in Lobster Lane, whither the champion removed in 1818 after his historic defeat of Tom Spring.[11] Thurtell appears still to have been living with his parents, for it was at their house, it is said, that Borrow, then a boy in his teens, met him and learnt a little of sparring from him. John seems to have formed an attachment for a pretty Quakeress about this time, of which his parents disapproved, but his affection, though apparently reciprocated, cooled, and he formed a *liaison* with a local beauty (a native, perhaps, of Yarmouth), of no antecedents or education, named Mary Dodson. He also became, during the

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[9] *Ib.* and Muster Book of the vessel; Marine Commissions, 1814, p. 40. In Steele's Navy List, Thurtell's name occurs as late as Oct., 1814. The story told in the "Times" and in many publications at the time, that Thurtell was a survivor from the *Defence* (lost Dec., 1811), together with the story of his having been in the King's German Legion and present at the sack of San Sebastian, are fabrications.

[10] "Times," 26 June, 1823.

[11] Mile's "Pugilistica," ii., p. 83 (1880).

year 1818 at latest, a frequent visitor to town, where his love of low company led him, to the great injury of his business, into the society not merely of questionable pugilists, such as the Belascos, but of their backers, and of the gambling fraternity and the *chevaliers d'industrie* of the metropolis.

Among these sporting characters was the once noted Pierce Egan, who was present at the trial and very much in evidence at the execution of his crony. One of the worst of John's flash acquaintances was William Probert, a man of gigantic stature but of puny spirit; brazen and impudent when he conceived himself to be in safety; craven in a moment of real danger; of little education, but of much low cunning; plausible, well-dressed, a master of every species of roguery and cozenage, maintaining a smart gig, and displaying in the most embarrassed circumstances the unblushing front of the professional bankrupt. Some five years senior to John in age, and much richer as yet in every disreputable experience, he became the evil genius of his naturally vicious companion. Born about 1789,[12] at Ross, in Hertfordshire, the son of a respectable farmer, Probert, on his father's death, in consequence, as it was suggested in cross-examination, of a precocious inability to distinguish between *meum* and *tuum*, exchanged the quiet life of the farm for a stool in the office of a wine merchant named Bramwell, of Pimlico. A keen eye to his personal advantage led Probert to seek the hand of Miss Eliza Noyes, the affected and somewhat uncomely daughter of Mr. William Crook Noyes, formerly an extensive brewer at Foxfield, near Hungerford, and afterwards a farmer of his own freehold land at Tangley, near Andover, whence he removed to Hampstead in very easy circumstances.

The lady was, it seems, several years her husband's senior, but he received a "handsome property" with her, whereby he was enabled to set up as a wine merchant on his own account in Coventry Street, with cellars hard by in the Haymarket.

In 1818 he removed to 112 High Holborn, where he failed in July, 1819, for £14,000, of which his creditors never received one penny.[13]

His solicitor in the bankruptcy proceedings was Mr. Noel, afterwards prominently connected with the investigation of the historic murder, for the victim of which he had been acting.

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[12] The Felony File, Herts. Sp. Gaol Deliv., Dec., 1823, returns his age as 33, but the O.B. Sess. Papers, June, 1826, describe him as 36.

[13] "Times," 7 July, 1819.

Mr. Probert's method of conducting business was the "long firm" one—to buy goods on credit, give bills for them, sell them for cash, and dishonour the bills at maturity.[14] He was a past-master in the concealment of assets, and was committed to the King's Bench Prison for refusing to answer questions in his examination as a bankrupt. He remained here some two or three years, living extravagantly on the proceeds of secreted stock-in-trade, wines and spirits, which he sold for cash to the debtors, in fraud of his creditors, while contriving to hide with great cunning the notes and gold of which he thus became possessed on the occasions of the Commissioners' visits. He is said to have exceeded in the profligacy of his conduct even the ordinary debauchery of an inmate of a debtors' prison. After being enlarged under "The Rules," he took the opportunity of robbing the coffee-room till of the King's Bench Prison of a considerable sum, for which offence he was tried at the sessions in Horsemonger Lane, and imprisoned for six months in the House of Correction at Brixton.

Meantime Thurtell's visits to London became more frequent, and his neglect of his business accordingly increased.

"I first became acquainted with John Thurtell," wrote Pierce Egan, "by his occasional visits to the metropolis about the years 1818 or 1819, by accidentally meeting with him amongst other sporting characters at the various houses in London kept by persons attached to the sports of the field, horse racing, and the old English practice of boxing. . . . He was viewed as a young man of integrity." Egan relates the decline of Thurtell's fortunes through neglect and dissipation and the circumstances immediately preceding his failure.

"Thurtell came to London, it is said, to receive several hundred pounds for goods which he had sold to a respectable house in the city, and was on his return to pay the money amongst his creditors. On his return from London an account appeared in most of the newspapers that he had been attacked and cruelly beaten by footpads; but after a most desperate resistance on his part, he was compelled at the hazard of his life to part with his property to the robbers.[15] It is a well-known fact that he appeared at Norwich terribly beaten, with

[14] See Assignees of *Bague* v. *Holding*, "Times," 21 Jan., 1821.

[15] According to the "Times" of 7 Nov., 1823, the notes Thurtell received in London were afterwards, in his bankruptcy examination, traced to the possession of his gaming associates; but the "Times" displayed such animus against Thurtell up to 5 Dec., when Mr. Justice Park's observations had a salutary effect, that we cannot depend on any of its reports.

a black eye and his head cut in several places. But his creditors insisted that it was a story propagated by Thurtell to deprive them of their property. . . . After this circumstance his character was gone in Norwich, and he therefore left it to be more at his ease in London. But reports injurious to his fame followed him to the metropolis; business was at an end, and how his time was occupied it would perhaps be difficult to describe.

The failure of Thurtell & Giddens was announced in the *Times* on 5th February, 1821, meetings being called for the 15th, 16th, and 17th March at the Norfolk Hotel, Norwich, solicitors for the bankrupts being Messrs. Ides, Poole & Greenfield, of Gray's Inn Square. On 30th October of the same year, Thomas Thurtell, who had become heavily involved as a farmer, and had "disappeared" from Norwich, also failed under the description of "licensed victualler." He subsequently made a composition with his creditors, of whom his father was by far the biggest.

On coming to town the brothers decided to tempt fortune in the *métier* of Boniface. John first established himself with May Dodson, his mistress, behind the bar, at the Black Boy, in Long Acre, which he took in the name of a younger brother, Henry, who subsequently "went for a soldier." He employed as manager in his absence a certain Cowdery, who afterwards gave evidence in favour of the County Fire Office in its proceedings against the Thurtells.

"He established an ordinary and evening parties, which were attended by a great number of such persons as usually flock to houses of this description, all desirous of serving the landlord, for he had the name of being a good-humoured, affable, and social man. The principal attraction, however, was the handsome Miss D—— (Dodson), who, as we have already stated, accompanied him in his disgraceful flight from Norwich, and now presided nominally as his barmaid, but was in reality his kept mistress.

"The scenes of riot, dissipation, and annoyance, constantly acted at this house led to a suspension of the licence, and thus in a very short time this public-house scheme proved abortive —the concern broke up, Miss D—— was abandoned (this was not so), and Thurtell was again lost sight of in the vast chaos of crime and folly, of which the element in which he delighted to move was composed."[16]

[16] "The Fatal Effects of Gambling," xv.

We hear that he used to frequent the Brown Bear in Bow Street, a great resort of the "fancy," and the Army and Navy Tavern, kept by one Grieve, and subsequently for a brief period managed by Thurtell's infamous confederate Hunt.

By degrees he wormed himself into some intimacy with the champions of the ring, and for several years acted intermittently as a trainer and backer of pugilists.

The first famous "trial of manliness" with which he can, unquestionably, be identified was the historic encounter between his Norwich crony "Ned Flatnose" (Ed. Painter, D.N.B.) and Tom Oliver (D.N.B.), on 17th July, at North Walsham.[17]

Thurtell acted as backer of the local hero on this occasion, though in the Press and in the *pugilistica* of the period he is not named, but described as a Norwich amateur. His connection with the contest is familiar to all Borrovians. His application to a neighbouring magistrate (Mr. J. B. Petre, of Westwick House, according to Knapp) for the loan of a "pightle" lying among his broad acres, "which he deemed would suit" as a milling ground, is one of the most familiar scenes in "Lavengro," the author skilfully indicating by a few master strokes John's theatrical air and style of speech.

"He was a man somewhat under thirty and nearly 6 feet high. He wore neither whiskers nor moustache, and appeared not to delight in hair, that of his head, which was of a light brown, being closely cropped; the forehead was rather high, but somewhat narrow; the face was neither broad nor sharp, perhaps rather sharp than broad; the nose was almost delicate; the eyes were grey with an expression in which there was sternness blended with something approaching to feline; his complexion was exceedingly pale, relieved, however, by certain pockmarks, which here and there studded his countenance; his form was athletic, but lean; his arms long. In the whole appearance of the man there was a blending of the bluff and the sharp. You might have supposed him a bruiser; something, however, was wanting in his manner—the quietness of the professional man; he rather looked like one performing the part—well, very well— but still performing a part."[18]

[17] If Borrow's recollection was correct, Thurtell promoted an earlier fight about 1817, within a league of Norwich. "The terrible Thurtell was present lord of the concourse; for wherever he moved he was master, and whenever he spoke, even when in chains, every other voice was silent. He stood on the mead, grim and pale as usual, with his bruisers around. He it was who got up the fight, as he had previously done twenty others," &c. The "Zincali," 4th ed., 13.

[18] "Lavengro," ch. 23.

The description of this fight in "Lavengro" conveys the idea that it was a "cross," Oliver suffering himself to be vanquished for vile lucre, and suddenly sinking "to the earth before a blow of by no means extraordinary power." . . . "Tom has sold us" (said the fighting men from town), "sold us to the yokels."

Whatever may have been Borrow's personal view, the best accounts of the battle accord far better with the jockey's eulogium of the dead man in "The Romany Rye"—"He never bribed Tom Oliver to fight cross, as it was said he did on the day of the awful thunderstorm. Ned Flatnose fairly beat Tom Oliver, for though Ned was not what's called a good fighter, he had a particular blow, which, if he could put it in, he was sure to win."

"Some sharp blows passed," says Miles in his "Pugilistica," "when Painter followed Oliver to the ropes, where the latter received a tremendous blow on his temple that floored him. When time was called, he could not appear at the scratch. . . . Oliver has declared since . . . that the blow operated on him like a shock of lightning, rendering him totally insensible."[19]

The victor drove away through the gathering storm in an open barouche—the favourite carriage of the "fancy"—with postillions in scarlet jackets and Thurtell by his side, his features wearing a smile of triumph, as he nodded to Borrow, while the "smoking steeds" dashed through the crowd and scattered it and the gipsy Pentulengro phophesied his "bloody dukkeripen."

This fight had drawn enormous numbers of sporting characters to Norwich, among whom were the pugilists Abe Belasco and Josh. Hudson. Anecdotes connecting Thurtell with these personages and with others are to be found in the chronicles of the time. They illustrate the mixture of the bluffer and the bully, which made up his unlovely character.[20]

Back in London Thurtell again frequented the Brown Bear, and here became acquainted with Mr. William Weare, a Mr. Lemming or Lemon, a "Captain" Elliott, and several other *chevaliers d'industrie*, who lived by blind hooky, hazard, billiards, and the promotion of crooked fights.

Weare, so far from being a solicitor or a man of education, as has been represented, was an ex-waiter from the Globe

[19] ii. 87, *Ct.* "Memoirs of Painter" in "The Fancy," No. 17, 1822.

[20] "Recollections," 35; "The Fatal Effects," xv.; "Pugilistica," i. 484

Tavern in Fleet Street, who later filled the same office at a gaming house. Having saved a considerable sum, and having a natural proficiency in billiards, he became, after acting for a time as marker, an independent player at the game, also attending race meetings, fights, spas, and seaside resorts with an E.O. table and other traps to catch pigeons. He was at this time one of a gang of forty sharpers frequenting the gambling hells of the metropolis.[21] It was his peculiarity to mistrust banks to such an extent that he preferred to carry his savings—no less than £2000—about his person in the form of notes, rather than keep an account. Mr. Noel, his attorney, persuaded him to open an account at Morland's with £500, but he speedily closed it.

"I knew the victim well," wrote John Payne Collier,[22] "having played hundreds of games of billiards with him. He was a regular blackleg, and was content to do business in a small way, if he could get no larger prey. So, as he was a good player he used to earn a few shillings from me, who never risked more."[23]

He had, however, a natural love of open-air sports, was a keen shot, and devoted to dogs, of which he kept several in his rooms in Lyon's Inn. In person he was neat in attire, but far from attractive in features; he was diminutive in stature, "had much of the cunning look of a Jew, and there was a peculiar hardness in his physiognomy; his cheek bones stood out so much and his chin was so small and pointed that his face below the eyes was quite a triangle." He had an elder brother, a seedsman at Coventry; another, Richard, a tailor in Southwark, and is said to have had a third, who played "Macbeth" in Dublin on the night of the murder.

Weare, Thurtell, and several others were in the habit of going down to Wade's Mill, in Hertfordshire, for the purpose of training pugilists and of gaming at night. Thurtell lived profusely, drove down "in post-chaise and four" and was accompanied by a mistress, a young woman of twenty-two "of a fine, full figure," an East Anglian of somewhat free manners and of no too exquisite modesty.[24]

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[21] "Times," 12 Nov., 1822.

[22] "An Old Man's Diary."

[23] Rexworthy, the billiard saloon keeper, swore, according to some reports, that Weare was not a good player.

[24] M'Gowan, 90. Probably this was Mary Dodson, as she was still with Thurtell in Jan., 1823.

Thurtell generally lost to Weare at play, in which he had little skill, but both were always ready to meet and pluck any local pigeons. Hickman, the "Gasman," and Jack Martin, the "Master of the Rolls," were two of Thurtell's intimates at this place, and he is said to have impersonated the latter pugilist (shortly after his defeat by Randall on Crawley Downs) at the benefit of Jack Carter, the "Lancastrian Hero," some 60 miles from town. Finding the veteran in some distress, Thurtell proposed to secure a good "gate" by pretending to be the redoubtable Martin; the fraud was seen through by a London rider, but Thurtell resorted to his usual tactics, carrying off a desperate situation by intimidating the horseman by a show of bravado.[25]

The second fight between Randall and Martin is said to have been a "cross" arranged by Weare and his flash friends to appease Thurtell for his losses at play at the Mill. "An attempt," says a scurrilous publication, "was at first made to buy over Randall, but that pugilist was proof against all their offers, and their attention was next turned to Martin, with whom . . . they succeeded. One bet was made of 1100 to 600 guineas, and Thurtell had his share of the 600 guineas."

This fight, which took place on 16th September, 1821, in the presence of 20,000 spectators, seems to have been a fair battle, in which the better man won. Little is to be read of our hero's share in the proceedings. "Tom Spring and Mr. Thurtle picked up Martin, and the whole party sported the radical castor (being white)."[26] After one round, in which he suffered severely, Martin, who was trained much too fine in expert opinion, fell insensible against one of the stakes, and was unconscious for half an hour. Egan tells us that Thurtell, though in reality second to Martin, out of respect to his friends had himself described as an amateur; and in the "Pugilistica" (i., 352) it is stated that "Tom Spring and an amateur were seconds for 'the Master of the Rolls.' Paddington Jones and 'Cicero' Holt officiated for Randall."

On his way down to the next great fight in which he was interested Thurtell had as a companion on the coach the famous critic, William Hazlitt. This was the historic battle between

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[25] Egan's "Recollections," 36.

[26] "The Fancy," No. 11, 1821; *Cf. Pugilistica*, i., 352. The "castor" was the beaver tall hat of the period and the "fancy" affected a white one, such as Thurtell was wearing on the morrow of the murder.

Hickman, the "Gasman," and Bill Neat, fought on 11th December, 1821, on Hungerford Downs.

"Tom Thurtle, the trainer, sat before me on the coach-box, with whom I exchanged civilities as a gentleman going to the fight. When I got inside at Reading I found Thurtell and a stout valetudinarian, whose costume bespoke him as one of the 'fancy,' and who had risen from a three months' sick bed . . . to see the fight. They were intimate, and we fell into a lively discourse. My friend the trainer was confined in his topics to fighting men and dogs, to bears and badgers—beyond this he was quite 'chapfallen,' had not a word to throw at a dog, and indeed very wisely fell asleep when any other game was started. The whole art of training (I learnt from him) consists in two things—exercise and abstinence—abstinence and exercise—repeated alternately and without end. . . . Martin trains on water, but this increases his infirmity on another very dangerous side. . . .[27] Thurtell, starting out of his sleep, swore he knew how the fight would go, for he had had a dream about it. Sure the rascal told us how the first three rounds went off, but his dream denoted a 'foregone conclusion.' He knew his men."[28]

Whatever may have been Hazlitt's opinion, this fight was no foregone conclusion; the result took the sporting world greatly by surprise. "The Gasman" started a warm favourite, and his downfall resulted in "A pretty 'cleaning out' of the Londoners, who returned to town with 'pockets to let.' Nevertheless, there was little grumbling, all concurring in the general opinion that Hickman was entitled to praise, doing all that he could to win."[29]

There is a *verve* about old-time sporting reports, which brings back the days of "Rodney Stone" and the breezy, brutal life of the Regency and Georgian era—

> "Round 7—Still Hickman seemed lively, but he was floored in a pig's whisper by a hit that drew his cork in profusion."

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[27] "It is true he (Martin) was never addicted to wetting his neck, but poor fellow, like our common ancestor Adam, it is certain he was not proof against another temptation. Dear creatures, we can't do without them," &c. *Pugilistica*, i., 353.

[28] The "New Monthly Magazine," Feb., 1822. It has never been doubted that John was the brother indicated. Tom had no connection with the "fancy."

[29] *Pugilistica*, ii., 114.

"Round 10—Neat . . . received a nobber and returned one, two hard, which floored 'Gas' rudely."

Overtaken, it may be, by disaster which had befallen the "Londoners," Thurtell seems henceforth to have renounced the ring. Except for the spar with Carter, when he posed as Martin, Jack never fought a battle with any pugilist of note. Once, indeed, he challenged Tom Belcher for £500 a side, but on that veteran inviting him at the Fives' Court to make good his words by a "glove" battle then and there (explaining that he had retired from the prize ring) Thurtell remained silent, and his want of pluck was the subject of general comment. He equally displayed the white feather when challenged by Josh. Hudson for some insulting remarks about his lack of fistic skill. This was the boxer to whom he had at a foregathering of sporting men at a Norwich hotel, after the fight at North Walsham, offered £5 to thrash Abe Belasco for suggesting that he had bribed Israel Belasco to fight a cross with the "Berghampton Groom." Abe's answer was to prophesy that he would live to see Jack hanged. After a little circulation of liquor, Hudson and the Jew had a trial of manliness on the spot without the formality of seconds, each agreeing to discontinue the fight after receiving severe punishment.[30]

It now became necessary to seek another means of livelihood than was afforded by the patronage of the ring. John was at this time an uncertificated bankrupt,[31] but his brother Tom, though he had failed for £4466, had made a composition with his creditors, of whom the chief was his father for £2578, and, after some confinement on a collusive suit brought by his brother, had obtained the liberty of the "Rules." Somehow or other, and perhaps through the influence with the trade of the rascally Probert, Tom became, in 1822, the licensee of the Cock Tavern, Haymarket, where he installed his brother as manager. The two rogues also determined to run a "long firm" business, a department of commerce in which their friend Probert was an expert. Accordingly towards the close of 1822 they raised money on bills—£500 being lent by their father—and bought a quantity of such goods as John had been

[30] Egan's "Recollections," 35, 37.

[31] A John Thurtell of Bradwell, Suffolk, likewise failed in September, 1822; how he or Charles Thurtell also of Suffolk, midshipman in the *Aboukir* in 1811, who was confused with the murder in the "Times" of Nov. 8, 1823, was related to the Norwich Thurtells, I do not know. I assume they may both have been related to Alexander Thurtell, whose father was a land surveyor of Norwich in 1825. See *ante* p. 2.

accustomed to handle in Norwich—"bombasines, Norwich crapes, and other silk goods." Most of these, Tom's credit being low, were bought for cash in London of the wholesale houses, Todd, Morrison & Co. and Leaf & Co., also of Henry Dawson, of Norwich, and R. A. Dawson, of Leeds. These were all most respectable firms. Invoices for goods were later on produced by the Thurtells, purporting to show purchases by them of like articles from their Norwich cronies—Bullen and Bagshawe, but these, it was suggested, were merely designed to cloak the frauds, which will now be traced.[32]

Tom had already, before Michaelmas of this year, taken part of the premises of Joshua Penny, wine merchant, of 93 Watling Street, ostensibly as a warehouse for the bombasine goods. Yet evidence given later, and Tom's own admissions,[33] showed that the goods received were taken elsewhere, viz., to William Steadman's, in Cumberland Street, New Road, and for the most part, speedily disposed of for cash, at a loss of 20 per cent. to the firm of Margrave & Co., a certain Snowden, a confederate of the brothers, acting as agent in these sales.

Such trading could have no honest purpose, and when it is stated that the supposed stock at Watling Street was insured, before any actual purchase, for nearly £2000 in December, 1822, and that the premises were completely gutted by fire on 26th January following, the thorough moral degeneracy of the brothers becomes too patent for the most adroit apologist to explain away.

That both brothers were equally involved is unquestionable, though the controlling mind was John's. Until shortly before the fire he had been sleeping at the warehouse with Mary Dodson. During this time he supervised the carrying out of certain structural alterations, which would have greatly impeded the utility of the premises as a warehouse, but were admirably adapted to conceal any act of arson from overlooking windows. These operations and the disturbance caused by them were no sooner over than John withdrew with his mistress to a house hard by on Garlick Hill—a very unsavoury neighbourhood. He lodged here at the house of a Mrs. Amanda Gwillim, a lady whose accommodating nature and catholicity of view led her to let apartments for any length of time (counsel in cross-examination even suggested half an hour) to married

[32] See the "Times," 26 June, 1823: 4 June, 1824; and a full report "The King on the prosecution of the County Fire Office v. Thomas Thurtell and others." London, Wm. Glindon, 1824.

[33] See previous note and the "Times," 22 Nov., 1823.

couples, whose marriage lines she was too well-bred, too liberal-minded, and too confiding to inquire about. Moreover, she added in the witness-box, "I am not to run to all the churches in London to look for registers of marriages." I am pained to add that John Thurtell (nicknamed "The Bully" and also "Old Flare"), shortly after the fire, assaulted this pattern of her sex, for which she prosecuted him at the Guildhall. The issue of the case is not reported. The weapon of attack was a candlestick; perhaps the alderman applied the maxim, *De minimis non curat lex*, and dismissed the complaint.[34] In consequence of this rupture, John withdrew from Mrs. Gwillim's, and, with Mary Dodson, took up his residence once more at the Cock Tavern.

The County Fire Office, with whom the premises had been insured, immediately disputed liability. Thomas issued a writ against Mr. Barber Beaumont, a director of the concern, and others, and the case came before Mr. Justice J. A. Park at the sittings after term at the Guildhall on 25th June, 1823.

This celebrated judge, so intimately connected with Thurtell's fate, "was a lawyer of the old school, with prejudices of the oldest. . . ."[35] "He was singularly like His Majesty George III., a fact of which he was proud. . . . He was well versed in the more abstruse branches of the profession, and was generally respected by the public and the bar."[36] One of his chief prejudices was the traditional one of the English bench against Jews and Papists. Another was a very unprofessional one against port and potations. As will be seen from the report of this trial, he was not always able to subdue these prejudices, even when a display of them was inopportune. Deeply, but narrowly religious, hot-tempered, irritable, and rather old-womanish, with much self-complacency and a full share of that judicial simplicity which affects not to know the slang of the day—such as the cant word for money, be it "blunt" or "oof"[37]—the judge was sometimes led by his failings into ludicrous positions. Once, examining a little

[34] From the "Times" of 14 Nov., 1823, it appears that Thurtell was discharged on some charge of assault, but his account points to a different occasion, when he forcibly resented some rudeness shown by some gentlemen to two filles de joie, with whom he was in company.

[35] Ballantine's "Experiences," i., 154 (1889).

[36] Grant's "Bench and Bar," 259 *sq.* (1827). Park's "Marine Insurance" is still a standard work.

[37] Middle-aged readers will recollect that the late Mr. Justice Denman's ignorance of this latter word caused much merriment in the famous pearl libel case. Dec., 1891.

girl on the *voire dire* to see if she had the capacity to give evidence, he sought to test her knowledge of right and wrong in the customary manner with reference to the awful truths of Christian eschatology and the duty of every good child to offer up its nightly orisons. "What do you do, my little maid," he kindly asked, beaming at her with all the animation of his lively countenance, "just before you get into bed?" Confusion reigned in the maiden's cheeks. A more worldly-wise man would here have put a "leading question." Sir Alan merely repeated his, and got the answer that every one but himself was expecting.

To any movement or disturbance in Court he was notoriously sensitive, and when the disorder in the Town Hall at Hertford culminated in whistles from the gallery reserved for magistrates (!) Park's "Christian forbearance," of which he was wont complacently to speak, must have been tried to its limit. Of his summing up a learned contemporary wrote, "He is rather happy at summing up evidence; he seizes the leading points with considerable facility, and is successful in placing them clearly before the minds of the jury. Even in his decisions you see the self-complacency of the man. He scarcely ever delivers a judgment without some special reference to his 'experience on the bench.'"[38]

In Thomas Thurtell's action against the fire office, Serjeant Lens was for the plaintiff and "Brother Taddy" for the defendants. The onus, of course, lay upon them, yet they might have succeeded if their counsel had not turned the learned judge against him by creating a "breeze in Court," in which the judicial dignity suffered a complete capsize. The scene, as described in the *Times*, may be quoted as an example of bygone forensic manners, and as an amusing exhibition of Sir Alan's foibles.

Taddy was cross-examining.

Mr. Justice Park—That is an improper question, and ought not to be put.

Mr. Serjeant Taddy—That is an imputation to which I will not submit. I am incapable of putting an improper question to a witness.

Mr. Justice Park—What imputation, sir? I desire that you will not charge me with casting imputations. I say the question was not properly put, for the word "disappear" means to leave clandestinely.

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[38] Grant.

Mr. Serjeant Taddy—I say it means no such thing.

Mr. Justice Park—I hope I have some understanding left; and so far as that goes, the word certainly bore that interpretation, and was therefore improper.

Mr. Serjeant Taddy—I will never submit to a rebuke of this kind.

Mr. Justice Park—That is a very improper manner, sir, for counsel to address the bench.

Mr. Serjeant Taddy—And that is a very improper manner for a judge to address counsel.

Mr. Justice Park (rising in some warmth)—I protest, sir, you will compel me to do that which is disagreeable to me.

Mr. Serjeant Taddy (with equal warmth)—Do what you like, my lord.

Mr. Justice Park (resuming his seat)—Well, I hope I shall manifest the indulgence of a Christian judge. (A fatally foolish move, leading to a speedy checkmate.)

Mr. Serjeant Taddy—You may exercise your indulgence or power in any way your lordship's discretion may suggest; it is a matter of perfect indifference to me. I am ready to submit to whatever measure you may choose to adopt.

Mr. Justice Park—I have the function of a judge to discharge, and in doing so I must not be reproved in this kind of way.

Mr. Serjeant Taddy—And I have a duty to discharge as counsel, which I shall discharge as I think proper, without submitting to a rebuke from any quarter.

Mr. Serjeant Lens rose to interfere.

Mr. Serjeant Taddy—No, brother Lens, I must protest against this interference.

Mr. Serjeant Lens—My brother Taddy, my lord, has been betrayed into some warmth.

Mr. Serjeant Taddy (pulling Mr. Serjeant Lens back into his seat)—I am quite prepared to answer for my own conduct.

Mr. Justice Park—My brother Lens has a right to be heard.

Mr. Serjeant Taddy—Not on my account, my lord, I am fully capable of answering for myself.

Mr. Justice Park—Has he not a right to possess the Court on any subject he please?

Mr. Serjeant Taddy—Not while I am in possession of the Court, and I am now examining a witness.

Here his lordship threw himself back in his chair and remained silent.

But Taddy scored a Pyrrhic victory, for, despite the cynical effrontery with which John Thurtell gave his evidence, inspiring the worthy judge with the feeling that "he was in the lowest state of degradation in point of moral feeling," Park revenged himself, as a weak judge worsted in a scene is too apt to do, by summing up dead against Taddy's clients, and the jury,

" without the least hesitation," returned a verdict for the plaintiff for £1900.[39]

Gravely dissatisfied with the verdict, Mr. Barber Beaumont at once caused an indictment to be prepared against the Thurtells and others for conspiracy to defraud the office. Proceedings were also taken as soon as the new term began to obtain a new trial, no execution issuing meantime on the judgment.[40]

All this while Thomas Thurtell's affairs were in the hands of his assignees for the benefit of his creditors. Hence no immediate pecuniary advantage was gained by the brothers through these dealings, beyond the cash which the goods fetched at Margrave's, for although these sales represented a loss of 20 per cent., it must be remembered that it was with borrowed capital raised on bills that the goods had been bought from Todd, Morrison, and others. The bills were not met at maturity, and the financial situation of the brothers thus became more and more involved.

John Thurtell was not, however, without resources; among the disreputable associates of Weare was a certain Lemming or Lemon, described in " Bell's Life," 23rd November, 1823, as " The moneyed employer of Thurtell and others in their diabolical practices." This man was a master of roguery in all its departments; with a gang of blacklegs and sharpers he visited spas and watering-places to fleece the unwary. In the year 1823 some of the gang were operating in Kent, making Margate their headquarters.[41]

Weare operated at Bath during the season of this year, and was at Doncaster in September for the St. Leger meeting, doubtless taking with him his paraphernalia of gaming.

The Army and Navy Tavern, one of Thurtell's houses of call, had lately changed hands. Mr. Grieve, who had been

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[39] " Times," 26 June, 1823.

[40] No common law writ could be *tested* except in term time. Where judgment was entered up in sittings after term, a writ could indeed issue, *tested* as of the first day of the preceding term. But execution in vacation was full of pitfalls. Hence Messrs. Dodson and Fogg did not attach Mr. Pickwick on a *ca. sa.* until the next term.

[41] " Bell's Life," 30 Nov., 1823. " Margate, Nov. 24. Our police has lately directed its attention to the apprehension of Lemon, a party connected with some of those who are charged with the murder of Weare. It appears that the whole gang, including the deceased were known here, and at the latter part of the season had made a lodgment in the Queen's Arms Inn in this town for the purpose of pursuing their nefarious practices." They were forced to leave and took private apartments, in which they left behind much furniture.

the proprietor, gave up the house, and a widow took it over, entrusting the management of it to one Joseph Hunt, who thus became acquainted with the man with whose name his own has ever been associated in the chronicles of infamy. Hunt's early history is obscure. He was about twenty-six years of age in 1823, had already been confined in Newgate[42]—on what charge cannot be ascertained—and, though evidently a man of the slenderest education, had some respectable connections by marriage, one sister being married to a Captain O'Reilly, of the Austrian service. A brother of his was a singer at Covent Garden Theatre, and Joseph himself was as good a vocalist as a semi-literate man could reasonably be.

He visited seaside places during the season, earning trifles by his voice, and was well known at Brighton. Though an arrant coward as well as a rogue, he seems to have assisted Thurtell and the gang he worked with in those occasional scrimmages in the gambling hells, which resulted from the sharpers' methods of play. As landlord of the Army and Navy Tavern his career was short and inglorious; he failed to pay for goods delivered at the house, and decamped considerably in debt and with no honest means of livelihood before him. The affairs of the Thurtells were also desperate. The butcher, who supplied the Cock with meat, cut off their credit early in 1823, they owing him some £11. They had also been obliged to realise the contents of the cellar, and had bills to the amount of about £900 falling due. Thomas, when later he was in custody, said that he had paid several hundred pounds worth of acceptances forged by his brother during this year, in order to save him from being hanged. It is difficult, however, to reconcile this assertion with his own insolvency at the time.

Such were the circumstances of these hardened villains when Weare returned to town in October, 1823, laden with the spoils of the Doncaster meeting. Having fled from the Cock, not merely because of the ruin of their affairs, but for the cogent reason that, being unable to find bail in the matter of the pending prosecution by the County Fire Office, they were momentarily apprehensive of arrest, the brothers took up their lodging in this month at the Coach and Horses, Conduit Street, kept by Charles Tetsall, a friend of Probert. The wine merchant's affairs were also very involved. Soon after his enlargement from the King's Bench, he had obtained a lease at

[42] Hunt is convict No. 1413 in the records of the *Justitia* hulk, where "previously in Newgate" is entered against him.

£35 a year of a cottage at Gill's Hill, near Elstree, where he ran a "jigger," or illicit still. As the discharge of his pecuniary obligations never troubled Mr. Probert, he was under notice to leave, not having paid any rent.

Weare soon after his return to town began to frequent his old haunts. A favourite billiard saloon with him was William Rexworthy's in Spring Gardens, where a new table had just been installed. The proprietor saw him several times at his house with John Thurtell, Hunt, and Probert during some ten days before his disappearance on 24th October. On the previous day, a Thursday, Weare had been at the saloon in company with John Thurtell, and had then informed Rexworthy of his intention of going into Hertfordshire with his companion next day for a few days' shooting. It is superfluous to narrate here the story unfolded by Mr. Gurney in his opening speech for the prosecution, so fully detailed by fifty-four witnesses, and so lucidly summed up by Mr. Justice Park.

The report of G. H. Jones, clerk to the Herts magistrates, gives a succinct and accurate account of the magisterial inquiry, and affords a good illustration of criminal investigation towards the end of the system created by the statutes of Philip and Mary, under which the justices acted very largely as superintendents of police.

The attention of the magistracy was first directed to the case by Charles Nicholls, of Batler's Green, Aldenham, farmer, who informed the Watford bench, at their petty sessions on Tuesday, 28th October, 1823, of some singular circumstances pointing to foul play. The justices, acting under the old statutes, proceeded to hold a criminal investigation. Mr. Clutterbuck in particular was active. He at once repaired to a part of Gill's Hill Lane, where a murder was said to have been committed, and conducted an investigation on the spot, which resulted in the immediate arrest of Probert. Having no efficient local constabulary, only unpaid parish constables, he summoned professional aid from London, and two "robin redbreasts," as the Bow Street runners were called from their scarlet waistcoats, came down next day—Simmonds and Ruthven. Continuing their inquiries, the local magistrates ordered the arrest of both the Thurtells and of Hunt. The examinations of many witnesses were taken at the house of Nicholls, the informant, lasting until three o'clock in the morning of Wednesday, 29th October, when the exhausted justices returned home.

By five that afternoon Ruthven had arrived again from town, having laid both Hunt and John Thurtell by the heels.

The singularly callous demeanour of both ruffians was in later years described by the famous runner to "Chief Baron" Nicholson, who has preserved the account in his reminiscences—

"While upon the subject I may as well give George Ruthven's account, which I received from his own lips, of the apprehension of Thurtell and the others concerned in that horrible murder. 'After it had been ascertained that it was human blood [no test at that time could detect human blood as distinct from mammalian; it is still most difficult.—E. R. W.] and human hair upon the pistol, and Hunt and Probert were in custody, I left in order to secure John Thurtell. I found him at the Coach and Horses, Conduit Street, Hanover Square. I said: John, my boy, I want you. What do you want, George? said he. I replied, Never mind, I'll tell you presently. Thurtell had been anticipating serious proceedings against him for setting his house on fire in the city, by Mr. Barber Beaumont, of the County Fire Office. It was highly probable that he supposed that I wanted him on that charge. He however prepared to accompany me. My horse and chaise were at the door. He got in and I handcuffed him to one side of the rail of my trap. I drove on towards Hertford. [Probably Watford. Upson, recalled, speaks of driving the prisoners down. He may have been in the second gig with Hunt (*Post*, p. 106.)—E. R. W.] On the road nothing could be more chatty and free than the conversation on the part of Thurtell. If he did suspect where I was going to take him, he played an innocent part very well, and artfully pretended total ignorance. We had several glasses of grog on the road. When we arrived, I drove up to the inn, where Probert and Hunt were in charge of the local constables. Let us have some brandy and water, George, said Thurtell, after he had shaken hands with his associates. I went out of the room to order it. Give us a song said Thurtell, and Hunt, who was a beautiful singer, struck up "Mary, list awake." I paused with the door in my hand and said to myself—'Is it possible that these men are murderers?'"

The magistrates recommenced their inquiries at the Essex Arms Inn, after having first received Mr. Noel, Weare's solicitor (formerly Probert's), and Rexworthy, who informed them of Weare's disappearance and of his avowed intention of going on a shooting expedition with John Thurtell. Rexworthy, Philip Smith, James Freeman, and his wife (who was not called at the trial), John Herrington, Richard Hunt, Nicholls, Wm. Bulwer, Susan Woodroffe, James Addis, and Ruthven were all examined, and gave substantially the same testimony that each repeated at the trial. The prisoners, under the old Tudor procedure, were not allowed to be confronted with the witnesses against them, but when the examinations were over were themselves subjected to a searching interrogation, based upon the information taken behind their backs.

Hunt seems at first to have said nothing. The accounts, however, vary. Jones, who was present, says, "Thurtell, Hunt, and Probert were called in and examined." Thurtell's examination (which might have been put in and proved against him, although, in fact, it was not) exhibits the usual lies and evasions, by which a prisoner, ignorant of what had been deposed against him, usually entrapped himself. The *Times* (1st November, 1823) thus reports what passed, "John Thurtell was then called in and examined. His account of the transaction differed very materially from that given by Hunt. He said he had no appointment with a gentleman to go down with him on that night. Took up no gentleman on the road. Never told any one that he could take him for a day's shooting. He walked with Probert and Hunt on Saturday in the lane for about ten minutes. They all had black hats on. His clothes and boots were not so dirty as to require a great deal of brushing on Saturday morning. The scratches on his hands were partly caused by some brambles, while he was shooting, and partly by the bite of a dog. He never said anything to Mr. Hunt or any one else about his hands being scratched." He was next pressed as to his acquisition of a pistol found upon him by Ruthven, and while he was offering his explanation he was suddenly confronted with the companion to it. "The pistol with the blood and hair adhering to it was then slowly exposed to the view of the prisoner . . . and his countenance and manner underwent a change too striking to escape the notice of the most careless observer. His complexion, naturally sallow, assumed a deadly pallor, and he appeared to shudder and shrink backward at the sight of the weapon." This was the pistol found in the lane near the scene of the struggle with Weare. The purchase of the pair was proved at the trial by a witness, Cogswell, in the employ of a pawnbroker named Hall. The youth was certain as to the date of the purchase, 24th October, the day of the murder, and as to the identity of the weapons, but could only give a general description of the purchasers as a tall man and a shorter one, which well agreed with the persons of Thurtell and Hunt.

No one could reasonably doubt that the three accused had made away with Weare; but an obstacle stood in the way of their conviction which might prove insuperable—no one knew where the body was, except the accused themselves. The general belief was that it had been carried to town and thrown into the Thames. If not speedily discovered, decomposition would destroy all chance of identification—in this dilemma it

became imperative to induce one of the three to turn approver. Hunt was first approached very irregularly by Mr. Noel, Weare's solicitor, who, without authority, promised him his life. His natural pusillanimity rendered the task easy. He was soon convinced that if he did not confess one or other of his accomplices would. He accordingly made a confession, in which he carefully suppressed the extent of his own guilt, but he gave the Crown the supremely important information sought, viz., the situation of the body.

When he had finished it was nine o'clock in the morning of the 30th October; the justices, who had been engaged all night, decided to adjourn until persons deputed for that purpose had searched the pond—called Hill's Slough—indicated by Hunt as concealing the victim. Joseph Johnson and others forthwith accompanied Hunt to the spot, some three miles from Probert's cottage, and, after some difficulty, drew forth from the shallow water a nude corpse, around the trunk of which had been wrapped a sack. This ghastly object the searchers carried to the Artichoke Inn at Elstree. The discovery being reported to the bench, they immediately committed John Thurtell for murder at the forthcoming special Gaol Delivery in December.

On the next day, Friday, 31st October, Benjamin Rooke, the coroner, held an inquisition *super visum corporis*, and Hunt and Probert were brought into the room. Hunt was silent, but Probert declared, "I never saw the corpse before. I declare to God, I never did; you may rely on it, I never saw that unhappy man before."[43]

Rexworthy and other witnesses were again examined, and some amplified their testimony already given by the addition of minor facts—as is commonly the case. Mr. Ward, a surgeon of Watford, proved the cause of death, and minutely described the injuries from the discharge of the pistol, the blows with the butt of it, and from the knife. He added, "The teeth of the upper jaw were forced out, and the mouth otherwise mutilated." Ruthven proved finding a number of Weare's things in Hunt's lodgings, and Bates, a boy, proved the finding among some dung in Probert's stable of a shirt marked "W," corresponding in every way with those found in Hunt's possession. Ruthven now intimated to the bench that Probert wished to say something. Two of the justices went into the room where he was; the craven giant, very characteristically,

[43] From the account of J. H. Jones, present in his official capacity.

fell upon his knees in the attitude of prayer, and said, "I declare in the presence of my Maker I never saw the man; I never knew the man, so help me God!"

After the usual formalities the inquest was adjourned till next day, and the prisoners were committed to St. Alban's gaol. At the resumed proceedings many persons were called, including the Justice's clerk, Jones, who has left us the most reliable report of the case. He was present when Weare's body was taken from the sack, and thus describes its appearance—"The hands were crossed on the chest . . . under each armpit was a large flint stone; the legs were also crossed and tied with a cord, which confined the sack round the body."

After further evidence Hunt was called in and made a confession, not differing in essentials from what he had already stated to the magistrates, but considerably more detailed. In each confession he pretended to have had no previous knowledge of any murderous design, and no personal share in the disposal of the remains in Hill's Slough. He was then sharply questioned by the coroner as to his share of the booty, which he impudently maintained was a sum of £6 paid him under agreement with Probert as his professional fee for singing at the cottage on the night of the crime. But he was forced to admit that he had bought the cord and sack used to envelop the body at John Thurtell's request, and had given them to him; he pretended that he thought that the sack was to put game in. The purchase of the cord he did not attempt to explain. He denied having ever worn any of the deceased's clothes, which was palpably untrue. In short, he equivocated and lied on every matter, which brought home to him a guilty knowledge of Thurtell's intention. He signed his statement "with the composure of a person engaged in the transaction of some business of an ordinary nature."

Probert was next brought in. He unfolded a tale which, like Hunt's, departed widely from the truth in those particulars which bore upon his own guilt. He said nothing of handling or removing the body, of having seen it, or of knowing where it was. Eventually the coroner warned him to stop.

CORONER—If you take my advice, you will give us no more.

PROBERT—If you please, sir, I can only say that I am not a murderer. I never saw the man and I never knew his name; I declare to God. . . . I am totally innocent of the murder. I did not know of the man's coming any more than the man in the moon. I declare to God and my Saviour, God Almighty knows I am not guilty.

He flatly contradicted Hunt's story that he had employed him professionally to sing on the night of the murder.

The jury, dispensing with any summing up, found that "John Thurtell, late of, &c. . . . Gentlemen, with a certain pistol of the value of ten shillings,[44] charged and loaded with gunpowder and leaden slugs," and "with a certain iron and steel knife of the value of sixpence" in and upon one William Weare, in the peace of God and of our Lord the King, then and there being, did make an assault, and (in plain English) did kill him in the manner deposed by the surgeon, and that Joseph Hunt and William Probert, respectively "gentlemen" and "wine merchant," counselled, procured, incited, and abetted the said John Thurtell the said murder and felony to do and commit.[45] The two accomplices were at once conveyed to Hertford gaol, and Thomas Thurtell was also arrested on a warrant, charging him with conspiring to defraud the County Fire Office.

On 10th November Mr. Serjeant Taddy moved for a new trial of *Thurtell* v. *Beaumont*, before Dallas, C.J., and Burrough and Park, J.J. The intervening murder and the production of two affidavits, one sworn by Hunt in Hertford gaol, and detailing an alleged conversation with John Thurtell, in which he admitted the arson at 93 Watling Street, were thought to have strengthened the hands of the serjeant not a little, and he took a rule *nisi*, returnable in the Hilary term following.[45A]

On 19th November Mr. Chitty, a lawyer who had the distinction of founding the best known, perhaps, of English legal families, and had, after many years of lucrative practice under the bar, been called in middle life, made two motions, on behalf of the prisoner Thurtell. One was for a *mandamus* calling on the Hertford bench, as "visiting justices," and the Governor of the gaol to admit to the prison under proper supervision and at all reasonable times Messrs. Jay and Fenton, attornies for John Thurtell, in order that they might take instructions for his defence. The other was for a criminal information against Mr. Williams, of the Surrey Theatre, and another for a high misdemeanour in attempting to pervert the course of justice by exhibiting at the said theatre a play entitled "The Gamblers," in which the whole story was enacted, as it had been fulsomely related in the public prints. Williams, "in

[44] Instruments of death were valued as "deodands" and the sum was anciently bestowed on pious uses.

[45] Original Inquisition and Indictment in Rec. Off. Ass. 35/263.

[45A] The argument is reported in 1 Bing. 339 and L.J. (O.S.) C.P. 4.

order to give great *éclat* to the performance, purchased the identical chaise in which the murder was committed or first attempted, and in which, it will be remembered, Thurtell drove Weare to the lonely cottage in Gills Hill Lane." The curious bald-faced horse, which had also been hired, and had been a dumb spectator of the crime, was likewise on view. The Court immediately granted the *mandamus*, and made a rule *nisi* in the other matter, which resulted in the immediate withdrawal of the performance, which was promptly resumed after the conviction in January following. On 28th November Mr. Chitty obtained a rule absolute for a criminal information against Messrs. Edgerley, Sherwood, and Jones, who had severally published accounts of the proceedings up to that date, calculated to pervert the course of justice.

On being informed of his arrest, Thomas Thurtell, "who has an impediment in his speech," made several disclosures about his brother. "He admitted that his brother had led a life the most wicked and dissolute for several years. . . . He stated that his brother had forged his acceptance to bills to the amount of £600 only eight months ago, and he was compelled to pay the money to save his life. . . . He burst into tears, 'Good God, what misery must my poor father and mother endure!'"

When the inquest had been concluded on Saturday, 1st November, night had fallen, but it was thought best to inter the remains without delay. They were accordingly conveyed in the darkness to Elstree churchyard, to repose near the nameless grave of the beautiful Miss Ray, the actress and erstwhile mistress of "Jemmy Twitcher," the notorious Earl of Sandwich, who betrayed his crony Wilkes for "publishing" his "Essay on Woman." She had fallen a victim to the pistol of a crazy parson named Hackman, who killed her to avenge a hopeless passion.

That nothing should be wanting to fill the cup of horror to the brim, the burial of the quondam waiter of "The Globe" was attended by a strange combination of sinister circumstances. It was eleven at night when the bell tolled for the ceremony. A few dim candles illuminated the church; the parson, with difficulty, by their feeble aid, mumbled the words of the service to a crowd of idle and disorderly persons, attracted merely by the same feelings which later drew unprecedented crowds to the murderer's doom. A half-dozen glimmering lanthorns lighted the way to the grave. Tall trees surrounding the churchyard deepened the black pall of night. As the coffin was being lowered a rope round the foot of it broke, and the

coffin fell into an upright position, men springing into the grave and struggling to settle it level.

The *Times* devoted five and a half columns of awesome description to the weird spectacle. "The scene which now presented itself was one which can never pass from the recollection of those who witnessed it. The unusual hour of the interment, the horrible manner in which the man whose corpse had just been consigned to the grave had lost his life, the solemn stillness of the night, for the wind, which had been loud and boisterous during the day, had now fallen . . . the impressive nature of the beautiful and affecting composition which was read by the clergyman, who stood conspicuous in his white gown, whilst all around him was darkness, except where the feeble light of a lanthorn happened to fall on the countenances of some of the mourners—all these circumstances produced an effect on the beholders which, we think, can hardly be surpassed."

It was not long before the gravediggers repaired again to the churchyard—this time to exhume the corpse, in order that Bingham, an ostler at the White Lion, a house called at by Weare and Thurtell on the night of 24th October, might attempt to identify the remains. "The parties, who were to perform and witness the disinterment, repaired to the churchyard at midnight. The night was dark, and the weather most inclement. Storms of rain and hail assailed the individuals who had taken upon themselves the unpleasant task. . . . By great exertions the coffin, which had been nearly full of water, was brought up; the lid was then unscrewed, and the corpse once more submitted to inspection. We forbear to enter into any minute description of the ghastly spectacle which now met the view when lights were brought close to the deceased. The secrets of the charnel house are too awful for the general perusal of those who yet live. . . . It is sufficient to say that, when the contents of the coffin were looked upon, it was instantly obvious to every one that recognition was impossible. The lid of the coffin was then replaced, and the body was again lowered into the grave."

Two days after the funeral several more arrests were made. Probert's wife and one of her sisters—Miss Anne Noyes,[46] a flippant, one-eyed, very uncomely person, who had both been at

[46] There was another unmarried sister, Caroline, aged 22, very well-favoured, to whom a Mr. Woods and John Thurtell were both paying addresses. It was this man towards whom Thurtell conceived "an unfinished design with a pair of dumb-bells," so admired by De Quincey.

Gill's Hill during the time the corpse lay there, were apprehended by Bishop, a runner, in Castle Street, Leicester Fields. Thomas Noyes, a brother of the ladies, who had played cards at the cottage on the Sunday after the murder, was also taken. "He was fearfully agitated, the perspiration flowed from him profusely, he struck his hands violently on his forehead, and appeared to be nearly choked in endeavouring to express his feelings."[47]

On Wednesday, 5th November, Mrs. Probert disclosed the possession of a gold chain; it had been given her on the night of the murder by John Thurtell, as she subsequently proved; it had belonged to Weare.

Throughout the month the Hertford bench were pursuing their inquiries, taking depositions from several other witnesses, besides the fifty-four finally examined in Court. Sir Richard Birnie, the chief magistrate of the metropolis, also conducted a magisterial investigation at Bow Street, for which, as well as for the assistance rendered by his runners, he received the thanks of the local justices after the trial. In consequence of the information acquired by him in his investigations, Sir Richard instructed the Margate police to effect the arrest of Lemon, who seems to have been a veritable Jonathan Wild, but the inefficient county constabulary of the period proved unequal to the task, and this dangerous ruffian escaped to the Continent.[48] On 18th November Anne Noyes was liberated, and her brother was set free on the 29th, having entered into recognisances in £100 and £200 respectively to attend and give evidence at the forthcoming trial.

Throughout the whole of November the daily and weekly press teemed with allusions to the case. Anecdotes of the early lives of the prisoners and of their victim, and of all associated in any way with the case, flooded the newspapers. The *Times* stood conspicuous for the manner in which it pandered to the morbid craving for any gossip about the ghouls of Gill's Hill. All sorts of crimes actually executed or merely contemplated were attributed to the prisoner John Thurtell. Stories revealing the lowest depths of trickery and meanness were eagerly retailed about the other two. Persons of the highest consideration sought pretexts for interviews with the murderer himself. Among these was Sir Thomas Lawrence, P.R.A., who wished to take a cast of his head in the interests of the

[47] "Bell's Life," 1 Nov., 1823.

[48] "Bell's Life," 30 Nov., 1823.

then fashionable "science" of phrenology.[49] The Earl of Essex, accompanied by his footman, visited the gaol to see if he could recognise in the person of John Thurtell a mysterious ruffian who had waylaid him some little while before.[50]

Meantime the commission day of the special gaol delivery drew near, with the public excitement daily increasing and the imaginations of all ranks violently inflamed against the prisoners. Persons of quality and leisure hurried from the most distant corners of the kingdom to be present, and fought for seats on the coaches bound for Hertford. The roads were crowded with tilburies, chaises, barouches, and horsemen. On the commission day itself the High Sheriff of Herts set out with twenty javelin men and a considerable retinue of the county gentry to meet Sir George Holroyd and Sir Alan Park, the judges in the commission of gaol delivery, who were approaching Hertford from Lord Verulam's seat at Gorhambury, where they had stayed the previous night.

The Honourable William Lamb, afterwards Lord Melbourne, was foreman of the grand jury. Nobility and fashion crowded the little town. Women of the great world and women of the half-world jostled one another in the public taverns. The bald-faced horse, whose equine eyes had seen all, was an object of the greatest curiosity. "The worst inn's worst room" commanded any price for the night. The colossal Probert, on coming from the grand jury room, excited as much interest as "The Duke" at a levée. "The buzz of conversation amidst all and in all places was a low murmur but of 'Thurtell,' 'Miss Noyes,' 'Probert,' 'Mrs. Probert,' and 'Hunt.' These vice-creatures were on all lips—and in no hour betwixt the evening and the morning was their infamy neglected to be told upon the night."[51]

After opening the commission and attending divine service, the judges adjourned to their lodgings, and in the afternoon returned to the Town Hall. Mr. Justice Park took his seat in the Crown Court to charge the grand jury; while his able colleague, a man marked out by his fearless independence in the great "wager of battle" murder six years before[52] as pre-eminently fit to conduct a trial fairly in the teeth of prejudice, repaired to a second Court to deal with such minor cases as the

[49] The "Times," 2 Dec., 1823.

[50] The "Times," 24 Nov., 1823.

[51] See a remarkable paper on "A late trial at Hertford" in the "London Magazine," Feb., 1824.

[52] R. Thornton. Warwick Summer Circuit, 1817.

grand jury might find. Park rose to the occasion; he was fully aware that all eyes were upon him. He had at all times an exaggerated sense of his importance to his country. "He looks at everything," said a contemporary, "in which he is himself as a judge engaged, through a glass of prodigious magnifying capabilities."[53] He had, moreover, all the self-made man's worship of the artificial barriers of pedigree. To be surrounded at this moment by the rank and beauty of the county, and to be for the nonce the first amongst them, flattered the self-complacency of the judge in a manner which is amusingly apparent in his charge, not the less so for being disguised under an assumption of humility and of unworthiness worthy of a Heep, and, as Sir James Stephen has said, so characteristic as to guarantee the fidelity of the report.[54] "The language of reproach is never pleasant to me. . . . It is hostile to my feelings. . . . I trust that I always mean to do what is right, but I am aware that I am continually in error, for no human being can doubt that he errs continually, because he is a human being." The learned judge concluded his charge by saying that if the three prisoners were tried on one indictment, the evidence of Mrs. Probert would be altogether inadmissible. According to the *Times*,[55] the effect of the judge's concluding words was for a fresh bill of indictment to be forthwith drawn omitting Probert, whom it had been determined to use as King's evidence, partly on account of the reservations in Hunt's confession, but also to introduce the testimony of Mrs. Probert, which could not have been used against John Thurtell, if Probert were in jeopardy of conviction.

However that may be, it is undoubted that Hunt and Thurtell were indicted together under the "addition" of "labourers," and that no indictment against Probert is extant; inasmuch as he stood charged as accessory before the fact upon the coroner's inquisition, it was needless to prepare a bill against him for the mere purpose of his formal acquittal. The grand jury found a true bill against Hunt and Thurtell, and on the following day, 5th December, all three prisoners were put to the bar, when Hunt and Thurtell pleaded not guilty to their indictment, and, together with Probert, pleaded not guilty to the inquisition.[56]

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[53] Grant.

[54] History of Criminal Law, i., 227.

[55] 5th Dec., 1823.

[56] The original indictment and inquisition are in Ass. 35/263 in Rec. Office.

The pleas taken, Mr. Andrews, leading counsel for Thurtell, applied to the Court that certain affidavits might be sworn. They related to the campaign of calumny carried on in the Press, and especially in the *Times* itself, against the prisoners. After some discussion and certain formalities, the clerk of the Court proceeded to read an affidavit by Thurtell's attornies setting forth particulars of the libels in the papers and in the various publications in book form which had already appeared, as well as of the infamous performance at the Surrey Theatre. The reading concluded, Messrs. Andrews, Platt (afterwards Mr. Baron Platt), and Chitty moved for an adjournment, to which motion Mr. Gurney (afterwards Mr. Baron Gurney) offered no serious opposition. His reply is notable only for having drawn from the judge a repetition of the opinion he had so forcibly expressed in his charge—that it was most improper to acquaint a prisoner with the evidence against him.

After some further observations from Mr. Andrews, Mr. Justice Park adjourned the Court to eight o'clock in the morning of 6th January, 1824, urging all persons "within the sound of his voice" to "disclaim and withhold such publications" as had been set out in the affidavits on the prisoners' behalf. This salutary warning, though it produced a little foolish abuse of the judge in the Press next day, completely put a stop to the scandals complained of. Mr. Herbert, author of the very spirited account of the trial in the *London Magazine*, has left an amusing description of the awe felt by certain humble fellow-passengers on the London coach, who were in guilty possession of authentic portraits and memoirs of the accused, from the sale of which they had hoped for a profitable trade.[57] "Some very good likenesses of the pond," which had decorated the window of "The Six Compasses," were forthwith withdrawn, under the notion that they were "actionable."

On 4th December Thurtell had received two visitors at the gaol; one was the officer formerly commanding in Leith Roads, Sir Edmund Nagle, who had been served with a subpœna by Messrs. Jay and Fenton, and had journeyed down from London to see if he could pick out the prisoner as one who had served under him, so as to speak as to his conduct. Nagle was, however, entirely unable to recollect the lieutenant of marines,

[57] When it is stated that the "Times" itself published, on 10th Nov., a detailed description of the attempt alleged to have been made on 7th Oct., by J. Thurtell, to murder Mr. Woods, some idea will be obtained of the spirit of journalism at this time. The fact that such publications were not dealt with as contempts of court, had, no doubt, much to do with their recklessness.

but was satisfied by Thurtell recalling the names of shipmates and the circumstances of some entertainments on board the "Adamant" that he had at one time been under his command. The prisoner apologised to the Admiral for the unnecessary trouble to which he had been put, and the Admiral returned to town.[58] The second visitor was the well-known sportsman Pierce Egan, who had known John for some five years. The demeanour of the prisoner, as described by Egan, who repeated his visit next day, was typical of the murderer—boastful, egoistic, impenitent, untruthful. His "sullen, low love of fame" made his present notoriety not altogether displeasing. "But what a piece of work this affair has made, ain't it? . . . Do I appear dejected?" he remarked with evident glee. He showed, however, as he did at the end, a sense of the disgrace he had brought upon his parents.

EGAN—You have not been to see your father or mother for these two or three years past, I suppose?

THURTELL—Oh! yes I have (giving a deep sigh). It is not seven weeks ago since I dined with them at Norwich, in company with Mr. Jay, my solicitor, at my father's house. (It was more than seven weeks since the murder.)

EGAN—Since you have been at Hertford, your father has not been to see you, nor any of your relations, have they?

THURTELL—No, no. I could not see my father. My feelings would not permit me. . . . I saw my brother Tom yesterday; that was quite enough for my feelings to undergo.

To the many persons who sought interviews out of mere curiosity Thurtell showed a pardonable coldness. It would be idle to recall such trifles but for the light they shed on social life less than a century ago.

As the adjourned date of trial drew near, public excitement waxed once more. Many persons came even from Ireland as well as from the most distant parts of Great Britain in the vain hope of finding room in the Town Hall.[59] The Press, which had for some weeks maintained a decent silence, "then burst forth with redoubled activity. Every paper had four to six 'Horse Expresses'; it was calculated that there were not less than one hundred horses placed on the road for this purpose."[60]

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[58] The "Times," 9 Dec., 1823 (wrongly indexed in Palmer as 9 Nov.). The anecdote in this paper of Thurtell's misconduct on board the *Aboukir*, related by one Young, must, if true, relate to Midshipman Charles Thurtell, aged at the time (1811) fifteen. He came from Suffolk.

[59] The "Observer," 11 Jan., 1824.

[60] *Ib.*

Ever since the arrest of Probert his wretched cottage had been an object of pilgrimage to thousands. The landlord, to whom the rent had long been owing, conceived the happy notion of charging a toll for admission. So great were his receipts that an unseemly squabble occurred between him and the Sheriff as to whether the gate-money belonged to the landlord by way of distress or to the Sheriff in lieu of execution, it being a case of *nulla bona*. According to Sir Walter Scott, John Bull "became so maudlin as . . . to treasure up the leaves and twigs of the hedge and shrubs in the fatal garden as valuable relics."[61]

In the town of Hertford itself hundreds were unable to secure sleeping accommodation. "Throughout the night (of Monday, 5th January) Hertford was as sleepless as before. The window at the Plough was as luminous as usual; the Half-Moon swarmed with post-chaises and drab coats; and the Seven Stars, the Six Compasses, and the Three Tuns abounded with tippling witnesses, all dressed in their Sunday clothes. . . . The Court was crowded to excess, and even at this early hour (7.30) the window panes, from the great heat, were streaming with wet."[62] The influx on the morning after the trial of a large number of fighting men, fresh from the great battle at Worcester between Spring and Langan, added to the turbulence of the town. The proceedings during the two days of the trial were constantly interrupted by disorderly outbreaks, which greatly tried the temper of the Court.

"At eight o'clock the trumpets of the javelin men brayed the arrival of Mr. Justice Park, who shortly afterwards entered the Court and took his seat. As usual, the Court was colloquial respecting the heat—and the crowd—and the sitting down of tall men—to the loss of much of that imposing dignity with which the ermine and the trumpets invariably surround a judge."[63] A long delay occurred; it was explained that the prisoners were having their irons removed. "In this interval, Mr. Jay and Mr. Fenton, attornies for the prisoner Thurtell, were struggling to find their way through the crowd for the purpose of obtaining places near the prisoner's counsel, and, having reached the point intended, and there being great noise

[61] Lockhart's "Life of Scott," viii., 351.

[62] "London Magazine," Feb., 1824.

[63] Mr. Herbert in the "London Magazine." We read elsewhere that "Several gentlemen of the bar, who do not usually attend the Home Circuit, having been attracted by curiosity, were accommodated with seats."

and confusion in the effort, Mr. Justice Park inquired who were the persons thus increasing the disturbance. Mr. Fenton and Mr. Jay respectfully intimated that they were the attornies in the case. Mr. Justice Park replied, with considerable warmth, 'Nonsense, it is only to make a fuss; you ought to be here at seven in the morning.'"

After further ebullitions from the bench, the prisoners at length made their appearance. Mr. Herbert thus describes the scene—

"Hunt was dressed in black with a white cravat and a white handkerchief carefully disposed so as to give the appearance of a white under waistcoat. There was a foppery in the adjustment of this part of his dress which was well seconded by the affected carriage of his head and shoulders and by the carefully disposed *disorder* of his hair. It was combed forward over his ears from the back part of his head and divided nicely on his forehead so as to allow one lock to lie half-curled upon it. His forehead itself was white, feminine, and unmeaning; indeed his complexion was extremely delicate, and looked more so from the raven blackness of his hair. Nothing could be weaker than his features, which were small and regular, but destitute of the least manly expression. . . . Beside him stood the murderer, complete in frame, face, eye, and daring! The contrast was singular—fatal, indeed, to the opinion which it created of Thurtell. He was dressed in a plum-coloured frock coat with a drab waistcoat and gilt buttons and white corded breeches. His neck had a black stock on, which fitted as usual stiffly to the bottom of the cheek and end of the chin, and which therefore pushed forward the flesh on this part of the face so as to give an additionally sullen weight to the countenance. The lower part of the face was unusually large, muscular, and heavy, and appeared to hang like a load to the head and to make it drop like the mastiff's jowl. The upper lip was long and large, and the mouth had a dogged appearance. His nose was rather small for such a face, but it was not badly shaped. His eyes were too small, and buried deep under his protruding forehead, so indeed as to defy you to detect their colour. The forehead was extremely strong, bony, and knotted—and the eyebrows were forcibly marked though irregular—that over the right eye being nearly straight, and that over the left turning up to a point, so as to give a very painful expression to the whole face. . . . His frame was exceedingly well knit and athletic. . . I have observed that Thurtell seldom

looked at the person with whom he conversed . . . but looked straight forward."

Probert was subsequently brought in and placed in the dock, but not close to the bar, gaolers interposing between him and the other two. Mr. Thesiger, distinguished in later life as Lord Chelmsford, who had been called just over five years (18th November, 1823, Gray's Inn), now rose to move the adjournment of Hunt's trial. Lengthy affidavits had been prepared on both sides, and, after argument, Mr. Justice Park overruled the application, and ordered the trial to proceed. There at once occurred one of those comical scenes—recurring throughout the proceedings—in which human nature, having "supped full of horrors," found relief in laughter. Several burly jurymen, after having taken up comfortable seats in the box, were challenged by the defence, and reluctantly compelled to withdraw. After twelve had been sworn, the Clerk of Assize charged them both on the indictment and the inquisition, and then the craven Probert was formerly acquitted. Fear and worry had largely blanched his raven black hair since his first apprehension, and the pencil of Mulready,[64] busily employed throughout the trial, seems to have caught the alteration of his appearance.

After a formal opening of the indictment, now disused, Mr. Gurney addressed the jury. His speech was "slow, distinct, and concise. . . . In several of the most appalling parts of his statement there was cold drawing in of the breath and an involuntary murmur throughout the whole Court."[65] It is needless to summarise the evidence of the fifty-four witnesses examined in support of the indictment. The shamelessness of Probert, the hysteria of his wife, the genuine grief of Richard Weare and of Thomas Thurtell, the ungrammatical officers and constables, the Bonifaces, mellow with their own liquors, the ostlers also somewhat overtaken, except Dick Bingham, who was "quite undisguised, and seemed to be confident and clear in proportion to the cordials and compounds," the Court's periodical outbreaks of temper, and the unending struggles of reporters and of the "fancy," to force their way into coigns of vantage, have been admirably described by

[64] The sketches made by Mulready of Probert appear to have been made on various occasions. In most the hair is blanched; in one or two it is black. When tried for horse-stealing in June, 1825, Probert, according to the "Times," had quite white hair. "The Fatal Effects" tells us "that his hair was turning grey" at the date of Thurtell's trial. (p. 89).

[65] I again quote from Herbert in the "London Magazine." E.R.W.

eye-witnesses. The two most alert people in Court were the judge and John Thurtell, the latter, as ever, acting a part. "I should not have omitted to mention," wrote Herbert, "an admirable piece of presence of mind and by-play which Thurtell showed towards Clarke, the publican who had been an old acquaintance; on Clarke's turning to bow to him when he entered the witness-box, in which he was about to speak to the prisoner's identity, Thurtell received the bow with a look of ignorant wonder, and elevated his eyebrows as though to say, 'How bow to me! I know you not.' This could not have been but instantaneous, but the intention of the prisoner was evident, and the trick was inimitably well performed."

In contrast to the theatrical demeanour of Thurtell was the impudently collected manner of the chief witness against him, Probert. "When Probert was called," says Mr. Herbert, "he was ushered through the dock into the body of the Court. The most intense interest at his entering the witness-box was evidently felt by all persons, in which even the prisoners joined. Hunt stood up and looked much agitated; Thurtell eyed the witness sternly and composedly. Probert was very well dressed, and had a new pair of gloves on. He did not seem the least ashamed of his situation. . . . The face of Probert is marked with deceit in every lineament; the eyes are those of a vicious horse, and the lips are thick and sensual. His forehead recedes villainously in amongst a bush of grizzly black hair, and his ears project out of the like cover. . . . He stood up against Mr. Gurney's exposure with a face of brass. Indeed, he seems to fear nothing but death or bodily pain. His grammar was very nearly as bad as his heart."

The counsel for the defence, able men as they were, could do little to assist their clients. Mr. Ward, the surgeon, gave the clearest evidence as to the cause of death, and defied all the efforts of Mr. Platt (whose peculiarities have been so entertainingly described by his pupil, Ballantine)[66] to entangle him. The evidence of the ostlers and publicans was far stronger than Thurtell had anticipated, and when at a very late hour the Court eventually adjourned he had made up his mind for the worst. It says not a little for his stoutness that next morning

[66] Platt was the son of Ellenborough's clerk; he was a man of comical appearance, who invariably put on "A wife and twelve children look"; not even Buzfuz could have surpassed this flight, "And, gentlemen, this serpent in human shape stole the virgin heart of my unfortunate client whilst she was returning from Confirmation."

"he looked as though he had passed a good night; and yet he must have been busy in the brain through all the dark hours." As Probert's face of brass had been the feature of the first day's proceedings, the oration of Thurtell stood out as that of the second.

It would be idle, indeed, and very unfair to the orator, to compare it with the masterpieces of professional advocates. The barrister's life is not at stake. He is performing a duty in which his personal interests are far less closely bound up than are those of a "prisoner in person"; he has all the advantage of experience and familiarity; he has, nowadays at least, the fullest possible instructions for dealing with the evidence on the other side; he could, until recently, take refuge from the unexplainable facts against the prisoner in the glib pretence that his client's lips were sealed. A man rising to address a jury under such circumstances as Thurtell's was so heavily handicapped that he was not infrequently advised by his counsel to attempt no defence at all.[67]

The more rhetorical parts of the speech Thurtell had carefully committed to memory; the eloquence was not his own, being a patchwork from the speeches of Charles Phillips and others; its very theatrical manner was wholly in harmony with the character of its author. Its effect is best described in the words of Mr. Herbert. "Thurtell now seemed to retire within himself for half a minute—and then slowly, the crowd being breathlessly silent and anxious—drawing in his breath and gathering up his frame, and looking very steadfastly at the jury, he commenced his defence. He spoke in a deep, measured, and unshaken tone, accompanying it with a rather studied and theatrical action. . . ." When he had finished his carefully learnt exordium, and proceeded to deal with the evidence, reading from the notes he had so diligently made, the favourable impression gave way, and before he had finished quoting his long list of alleged wrongful convictions the patience of the audience had been entirely exhausted, and there was so much noise in Court that his powerful tones were well-nigh inaudible.

It is a curious psychological fact that an advocate preaching on the fallibility of circumstantial evidence from the acknowledged blunders of the past nearly always prejudices his own cause. He bores the jury, and leads his hearers to the somewhat

[67] In the cases of *R.* v. *Motherhill* (rape) and *R.* v. *Thornton* (murder and rape) the prisoners remained mute when called on for their defence, and were acquitted.

illogical conclusion that he must have a very poor case, since he prefers to talk about others. There is no more certain way of irritating a judge or jury than to parade the shade of the late Adolf Beck. Mr. Herbert tells us that "this paper was either so ill-written or Thurtell was so indifferent a reader that the effect was quite fatal to the previous flowery appeal to the jury. He stammered, blundered, and seemed confused throughout. . . . When he had finished his books and laid aside the paper he seemed to return with joy and strength to his memory, and to muster up all his might for the peroration."

The scene at the close of the speech has never been surpassed for dramatic interest in a Court of justice. "The solid, slow, and appalling tones in which he wrung out these last words can never be imagined by those who were not auditors of it; he had worked himself up into a great actor, and his eye for the first time during the trial became alive and eloquent. . . . The final word 'God!' was thrown up with almost gigantic energy, and he stood after its utterance with his arms extended and his face protruded and his chest dilated, as though he dared not move lest he should disturb the still echoing appeal. Such a performance, for a studied performance it surely was, has seldom been seen on the stage, and certainly never off. Thus to act in the very teeth of death demands a nerve which not one man in a thousand ever possessed."

When Hunt was called upon for his defence his feeble voice and shrinking manner were doubly apparent from the overwrought energy of his companion. He was entirely unable to read the paper prepared for him, and it was accordingly read by an officer of the Court. When the reading was concluded "Hunt read a few words of his own on a part of Probert's evidence in a poor, dejected voice, and then leant his head upon his hand. He was evidently wasting away minute by minute. His neckcloth had quite got loose, and his neck looked gaunt and wretched."

Before Mr. Justice Park began to sum up, Thurtell spoke with great firmness to those about him. He said he was sure the judge would take about four hours, but for himself his mind was made up for the worst.[68] Park exhibited his favourable qualities as well as his foibles in the painstaking effort in which he laid the case before the jury. He had displayed throughout the trial that minute attention to the matter in hand, which was noticed as a characteristic by

[68] The "Observer," 11 Jan., 1824.

Grant.[69] Thus we find him recalling Ruthven to prove that Conduit Street was in the parish of St. George's, Hanover Square, in the county of Middlesex, and putting the coroner into the box to prove that both Gill's Hill Lane and the pond where the body was found were in Hertfordshire. The object of these questions was to establish the charge precisely as laid in the indictment.

Otherwise a counsel of Thesiger's ability might have moved in arrest of judgment that there was no proof of the fact alleged against Hunt that "With force and arms at the parish of St. George's, Hanover Square, &c.," he counselled, stirred up, and incited his comrade to commit the murder. To the learned reader it may be unnecessary to remark that men's lives often depended in bygone days upon such trifling flaws of form.

The jury took twenty minutes to consider their verdict, and when they returned the foreman was in tears. When the verdict was given "Thurtell shook not to the last. Hunt was broken down, gone! He sobbed aloud in the wildness of his distress; his faculties seemed thrown down." Before the *allocutus* or formal calling on the prisoners, which is still part of our immemorial usage in cases of capital conviction, a curious scene occurred, which is thus described in a MS. of Lord Chelmsford himself. "It was about eight o'clock in the evening of the second day of the trial, when we were all exhausted and in a state of nervous excitement, and the judge was preparing to put on the black cap to pronounce sentence. At this awful moment, Chitty, the celebrated special pleader, rose to move in arrest of judgment. He was always a confused speaker at the best of times, but he was then in such a state of nervous trepidation that he was hardly articulate, and in the midst of a confused jumble of words it was with difficulty that we could understand his objection—that the trial had begun on January the sixth, the feast of the Epiphany, which was a *dies non* like a Sunday, and therefore that the whole proceeding was void. The only answer given by Mr. Justice Park was expressed in these terms, 'Why, Mr. Chitty, the Lord Chief Justice frequently tries causes on Good Friday,' to which Chitty answered, 'Talking of Good Friday puts me in mind of a story,' and then he told the well-known anecdote, but with the omission

[69] "He throws his whole soul into the case he is called on to decide. . . . As he never gets languid himself, so he will not allow counsel or any body else, if he can help it, to administer to their slumbering propensities. He is always making some remark or asking some question which admonishes the counsel engaged in the case that they must be all attention."

of Pontius Pilate, the only point."[70] The printed reports include Pontius Pilate, but inasmuch as some attribute the retort to Sergeant Hill before Lord Kenyon and others to Mr. Dunning before Lord Mansfield, it is clear that what passed between Chitty and Park was not very audible. It certainly seems from the judge's reply that the procurator of Judæa was cited as a solitary precedent.[71]

The motion was overruled, and after a few manly words from John Thurtell asking for a short respite, Sir Alan, labouring under great emotion, passed sentence of death. The theatrical nature of the murderer again asserted itself. Conscious that every eye was upon him while the dreadful words about his body's dissection were falling from the tremulous lips of the venerable judge, he ostentatiously "consumed the pinch of snuff which had to that moment been pausing in his fingers."[72]

The respite sought by Thurtell the judge was unable to grant. In all cases of conviction of murder as a principal, death followed judgment with a swiftness that, under the appearance of harshness, was yet the truer mercy. Thurtell occupied the brief remaining hours of life in characteristic fashion. At first the instinctive horror of untimely death unmanned him. "When the Rev. Mr. Franklin saw John Thurtell this evening his spirits were completely gone; the reverend gentleman found him sitting in a cell bathed in tears, and evidently oppressed by great mental anguish. He left him in a state of deep dejection."[73] His natural courage soon, however, enabled him to face the inevitable end. He was generally considered to have shown genuine contrition and to have revealed unsuspected depths of goodness. The gaolers said that "he was a kind, good-hearted fellow, so obliging and friendly that they never had a prisoner whom they so much regretted. And such seems to have been his general character, when not inflamed at once by the desire for revenge and of gain."[74] The sex, in particular, commiserated his fate, but a misplaced sympathy was well-nigh universal.

Charles Lamb indulged in a cheap sneer at Park in an "Essay of Elia," written on the morning of the execution. In short, Scott scarcely exaggerated when he wrote, "It" (the murder) "led John Bull into one of his most uncommon fits of

[70] "Atlay's Victorian Chancellors," ii., 91.

[71] Post p. 162. The incident occurred before Mansfield.

[72] Herbert *loc. cit.*

[73] The "Observer," 11 Jan., 1824, from a letter dated Hertford, 11 o'clock, on the 9th.

[74] Archbishop Whately in "Bacon's Essays" (1856), p. 112.

gambols, until at last he became so maudlin as to weep for the pitiless assassin Thurtell." In anticipation of a record demand Jemmy Catnach prepared a series of execution broadsides. He is stated to have reaped £500 in pennies from the crime. It has even been stated that the word "catch-penny" owes its origin to a trick he played upon the public shortly after the stroke of justice had fallen upon the murderer in bringing out a print headed, "Weare Alive Again"—explaining to deluded purchasers that by a typographical error no space had been left after "we."[75]

Enormous crowds flocked down from town to see the hero of the hour turned off. A stream of smart vehicles blocked the roads to Hertford on the night of Thursday, the 8th January. Many elegantly attired females were noticed among those who drove down, and a heated controversy was maintained in the Press as to whether these were but Cyprians, or represented the social world as well. Meantime the bards of England were busy with their ballads. Many of the choicest flowers of the British muse sprang up in the night or two between the judgment and the doom. On the fatal Friday Parnassus resounded with song. It is needless to recall here the most famous stanza of them all. It has passed, under the auspices of Scott, Thackeray, and other immortals, into its place among the gems of our national poesy. Every schoolboy knows "who dwelt in Lyon's Inn."[76]

Other bards, too, have deserved well for their efforts on this occasion. One verse, in particular, is even more horripilant than the more famous one. It has the further merit to the lawyer of laying the facts more correctly—

> The helpless man sprung (*sic*) from the gig
> And strove the road to gain,
> But Thurtell pounced on him and dashed
> His pistol through his brain.
> Then drawing forth his murderous knife
> As over him he stood,
> He cut his throat, and, tiger-like,
> Did drink his reeking blood.

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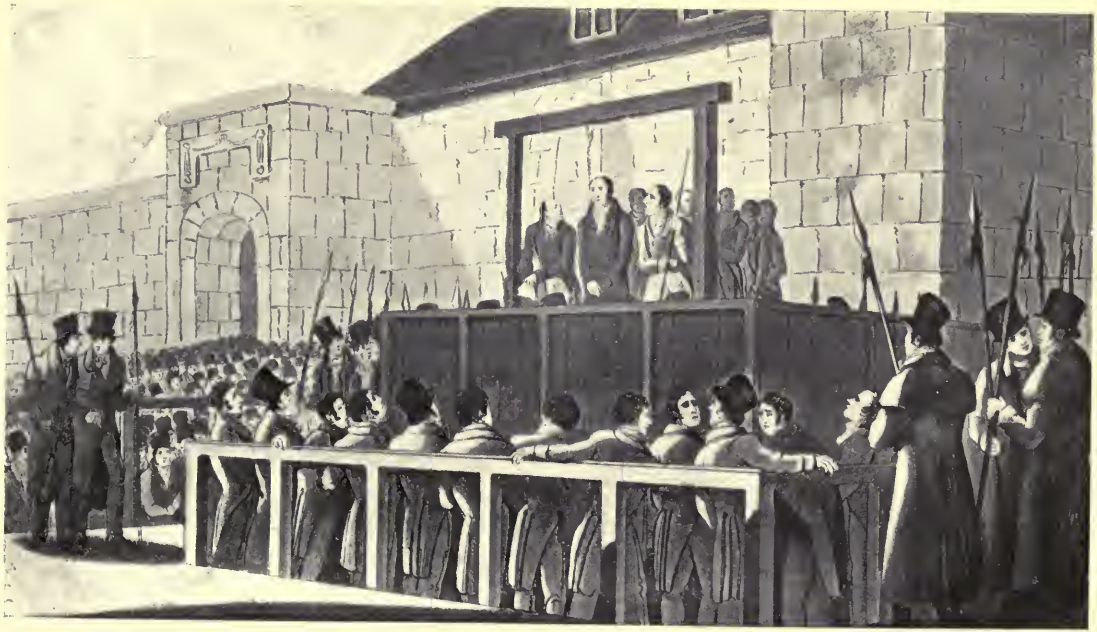
[75] "The Life and Times of J. Catnach" (1878), by C. Hindley. The word catch-penny is at least as old as 1763, having been used in the denunciation of Kidgell's infamous pamphlet on Wilkes and An Essay on Woman.

[76] See the authorship of these lines discussed in "Notes and Queries," sixth ser., xii., 136; eighth ser., iv., 146, 216, 256; eleventh ser., iv., 244, and the "Sporting Review" (1829), ii., 41; the "Standard," March, 1903, *passim*.



Execution of John Thurtell.

After a contemporary lithograph.

Another minstrel, if he shows a less perfect command of rhyme, must yet be allowed a consummate master of the figure of speech known as the "Attic Understatement." He thus commemorates the deed—

> They knocked him down
> With a pocket pistol,
> His throat they badly cut,
> Then into a ditch
> In a sack well stich (*sic*)
> This wounded man they put.

Meantime Thurtell spent his time in typical murderer fashion, in forgiving the world for the injuries it had done him, in evading questions touching his guilt, in somewhat morbid religious exercises and in occasional outbreaks of the real man, "Bloody, bold, and resolute," threatening vengeance on those who had betrayed him. The insincerity of his repentance is shown by nothing more clearly than by his parting words with Hunt, when he again reproached that wretched man for his disclosures, without which there could have been no conviction, and by his solicitude that his oration should appear correctly in the public prints. "The cold-blooded murderer," observed the late Dr. Benjamin Howard, "feels no remorse other than the chagrin at the mistake in not securing immunity."[77]

The scene at the execution itself was copiously described in the newspapers of the day. It was marked by all those disorderly circumstances and mishaps which invariably attended the gathering together of huge crowds of dissolute and dangerous persons. The professional pillagers were present in force. The prisoner's friends gathered at the foot of the scaffold. Egan was there. The infamous Probert, who after his exposure had proceeded with unblushing front to a tavern, where he fell to upon a bottle of wine, had wished to be present also, but the Rev. Mr. Lloyd urged upon him the propriety of a return to town, and he was actually proceeding to take his seat in the public stage, when the worthy pastor pressed upon him some money for a chaise. Thurtell died firmly. The gallows was the first of its sort erected in Hertford. It launched its victim into eternity with convenient speed. A loud report was heard, says the *Times*, at the

[77] See the passage quoted from his "Prisoners of Russia," at p. 143 of my "Eugene Aram," in the Notable Trials Series. E.R.W.

moment when the neck was dislocated by the fall. Borrow in later years was wont to say that it was a shame to have hanged such a man. "Why, when his neck broke, it went off like a pistol."

Other accounts say that the dying man was heard to give a deep groan. Just before the drop fell he had been observed to bow to some one in the crowd. Egan took the compliment for himself. Borrow tells us that this last recognition was intended for a humble friend, who had driven a great distance to take his leave "of the only friend I had in the world."[78]

"We could perceive," said the Medical Adviser (17th January, 1824), "in his countenance, when he was on the fatal platform, that the feeling of irritation was working in his breast." A curious incident was noticed by the *Times* reporter and others. "Four messengers, with the fleetest horses, were despatched from Hertford to town the moment the fall of the drop had for ever closed this source of disquietude." It was suggested that these "horse expresses" conveyed to Lemon and other criminal associates of the dead man that he had died without making any disclosure. But it is difficult to see how the messengers could have had any knowledge as to what passed between the doomed man and his gaolers. It is far more probable that the expresses were bound with "copy" for Fleet Street, since at that early period of journalism occurrences were described by persons who had actually seen them, and thus there were no chronicles of events which never happened.

The corpse was conveyed to Bartholomew's Hospital for dissection in a gig—as if the destiny of the ill-starred man could not even in death be divided from such a vehicle. A finger was cut from the hand on the journey to town in order to provide, some said, a tobacco stopper, or more probably through the superstitious belief in the touch of a hanged man's hand as a cure for wens. At the hospital vast crowds swarmed to see the body. A pretence was made of limiting the admissions to the Faculty, but impostors, by the easy affirmative reply to the question whether they could answer any conundrum in anatomy, had no difficulty in getting in. For some weeks the famous Abernethy publicly dissected the body. By the time he had concluded, the corpse had begun to be very offen-

[78] The story of the jockey Jack Dale is told in ch. 42 of the Romany Rye with considerable pathos. I fear that the amiable character of Thurtell here presented by Borrow has little support in historical fact.

sive. Nevertheless, thousands visited its ghastly lying in state. Daily descriptions whetted the morbid appetite of the public.[79]. Phrenologists and physiognomists squabbled over the character of the departed—as if it had not already been sufficiently laid bare. The former professed to discover benevolent qualities in excess, benevolence itself was thirteen, combativeness "very slight—only six," and destructiveness was almost non-existent—a paltry five. Such rubbish misled the Primate of Ireland, the acute Dr. Whately, into forming an estimate of the dead which does little credit to his understanding in such matters.

The physiognomists were happier. "If phrenology did not prove him a murderer, physiognomy did. The narrow forehead, thick eyebrows, small eyes with fat swellings under them, long jaws, curled nostrils, thick lips with the under one falling, thin hair and circumscribed beard, the lines of the cheeks and the angles of the lips almost continuous—all develop the temper and disposition of the criminal far more intelligibly than the present system of phrenology."[80]

Meantime, on the eve of his execution, Hunt was reprieved and sent to the "Justitia" hulk, preparatory to transportation. The Home Office Records show that he arrived at the hulk at Portsmouth late on 28th January, 1824. His utter vileness is strikingly illustrated by an anecdote in the *Times* of 24th February, 1824. He actually sang in the chapel the song he had sung to Mrs. Probert after the murder—the duet "All's Well." To some casual visitors he remarked, "Jack has silenced many a man. Why, he disposed of three or four in the house at Manchester Buildings." In a confession, authenticated by Mr. Clutterbuck, the Justice, and embodied, with all its faults of grammar and spelling, in the report of Mr. Jones, the justices' clerk, Hunt repeated these wild charges.[81] A Mr. Cotton and others who had unaccountably disappeared were supposed to have been made away with by this gang. It is useless to speculate upon the truth of Hunt's insinuations. He seems to have taken a perverted pride in being taken for a "Turpin lad" instead of the craven coward he was. Thurtell was such a clumsy murderer that Weare's was probably a first attempt. Hunt was placed on board the "Countess of Har-

[79] See the "Times" for 10 and 13 Jan. and 21 Feb., 1824; and "Morning Chronicle," same dates.

[80] The "Medical Adviser," 17 Jan., 1824; 24 Jan., 1824.

[81] See "Notes and Queries," tenth ser., xii., 283.

court," convict ship, on 8th March; she sailed on the 16th, and Hunt, instead of being murdered on the voyage, as Ballantine has related, duly landed in Botany Bay, was moved inland to "The Felons' Paradise" in Wellington Valley, and later on was assigned as a servant to a Mr. Jonathan Slattery at Bathurst, where he was living when her late Majesty ascended the throne.[82]

Mr. Barber Beaumont continued to pursue his proceedings in the matter of Thomas Thurtell's claim against his office. On 11th February, 1824, Mr. Serjeant Taddy moved for a rule absolute for a new trial of the action heard the previous June, but the Court, through Lord Chief Justice Gifford, refused the rule. On Thursday, 3rd June, the proceedings initiated before the murder against both the Thurtells and Borthwick, the porter at Watling Street, and Snowden, who had acted as agent for the Thurtells in the re-sales to Margrave of the goods purchased from Todd Morrison and the others, came up in the King's Bench before Lord Chief Justice Abbott and a special jury in the form of a trial for conspiracy to defraud the County Fire Office. The nature of the evidence in support of the charge has already been indicated. After some spirited advocacy on both sides, the Court, in a luminous summing up, pointed out that the issue was not whether the fire was accidental or felonious, although that had a material bearing on the case, but whether the accused had fraudulently conspired to claim in respect of goods not on the premises at the time, and so not destroyed by the perils insured against. In the end Thomas Thurtell and Snowden were convicted, and Borthwick was acquitted. Sentence of two years' imprisonment was passed, and the prisoners were removed to Newgate.

Probert, who had withdrawn from Hertford amid the execrations of the entire populace (after a characteristic piece of meanness in trying to evade payment of a small debt due to the turnkeys), came up to London, and, with his usual matchless impudence, wrote to the *Times* and other leading papers threatening to issue writs for libel on his character. A shady attorney named Jacob Mann also wrote to Messrs. Knight & Lacey, publishers, demanding to know the name of their solicitors, as "Mr. William Probert intends to take instant proceedings against them for publishing Pierce Fgan's Recollections

[82] H.O. Rec. 10/23, 10/33. See some articles on convict life in "Botany Bay and Wellington Valley," by Mr. Tighe Hopkins in "The Law Times," 1903, and his "Romance of Fraud," 1914.

of John Thurtell."[83] His threats were treated with contempt, and, in utter poverty, he was driven as an outcast from place to place. Taking refuge with a farmer named Meredith, he repayed his benefactor by stealing his mare, valued at £25. He came to London once more, and disposed of her for a small sum. He was soon apprehended, and tried at the April sessions of the Old Bailey in 1825. A feeble effort was made by his counsel in cross-examination of the prosecutor's wife to suggest that she might have lent Probert the mare. This she denied, but had Probert appeared to be a bailer, he must have been acquitted at common law, though he had sold the animal. The prisoner "was genteelly dressed in black, and exhibited not the least appearance of fear."[84] He read his address with great composure; it amounted to no more than a plea *ad misericordiam*, the wretch not denying his offence, and, after a few words from Lord Chief Justice Abbott, the jury found him guilty, and he received sentence of death. Confidently relying on the Royal mercy, he left the dock undismayed.

As if the fate of his companion had not made the phrenologists look sufficiently foolish, a crazy professor of the science wrote to Probert in prison just before his trial suggesting that he would certainly escape by contending that a man with a head like his was an inevitable criminal. This deterministic argument did not commend itself to the prisoner's good sense.[85]

No respite arrived, and on Sunday, 19th June, Probert took a last leave of his wife and mother, and, after the horrible custom of the times, listened to the condemned sermon. "Probert's wife and mother did not bid him a final farewell till yesterday afternoon. The wife appeared to be bereft of her reason. The wretched man, who had been clinging pertinaciously to life to the last, is said in the course of the evening to have discovered some disposition to the admonitions of the Reverend Ordinary [Dr. Cotton] . . . It has been intimated that Probert wrote some time back to the Earl of Uxbridge." At the condemned sermon "his appearance was just such as might have been expected by those who read the accounts in general circulation about him. He walked with a firm step to the pew appointed for those who are irrevocably doomed to

[83] The "Sunday Times," 25 Jan., 1824.

[84] The "Times," 8 April, 1825.

[85] *Ib.* 3, b.

death. He sat down, put his hands to his face, and seemed to be quite overpowered with anguish. Probert exhibits one strong evidence of 'a mind diseased.' His hair, which was quite dark when he appeared with his brother murderers at Hertford, is now almost completely grey. Calamity and crime have changed it. . . . Thomas Thurtell, who is still confined in Newgate, was not at the chapel."

When informed of his fate, "his limbs shook, and when he could distinctly speak he said, 'Oh, God, is this the way I am to die, to die? Oh, it is not for this I die.' All attempts to recover him from his fears and horrors were useless." At the place of execution "his limbs were completely palsied, and his agitation dreadful." He died on 20th June, in the thirty-seventh year of his age, and was buried in the presence of enormous throngs on the 22nd in St. Martin's churchyard. He, too, has won, like Thurtell, an imperishable distinction: the *Morning Chronicle*, by associating his gig with his apparent gentility, provided a definition of "gentleman" which will last as long as our language, and led Carlyle to coin his familiar "Gigmania" and "Gigmanity," and George Eliot to speak of "proud respectability in a gig."[86]

Yet not with his death was the tragedy of Gill's Hill forgotten. Nothing is more curious than the fascination these truculent ruffians excited in men of genius and learning. Scott, proceeding north on 28th May, 1828, "could not resist going out of his way to see the spot where William Weare, who 'dwelt in Lyon's Inn,' was murdered," and has sketched in a few masterly words the weird appearance of the cottage, which long continued to be a place of pilgrimage, until it was finally demolished about 1888.[87]

Literary and artistic genius were alike attracted by the crime. That the tag-rag and bobtail should have revelled in the chap-books and ballads is in no way surprising. It was just such a

[86] It has commonly, but mistakenly, been said that Probert was defined by a witness as "A gentleman, because he kept a gig." Carlyle, indeed, quotes in his essay on Boswell what purports to be a question and answer from Thurtell's Trial to this effect, but I have met with no report containing such a passage. The origin of the phrase was this passage in the "Morning Chronicle," "He always maintained an appearance of respectability and kept a gig." On the other hand, "Was the supper postponed? No, it was pork," was the answer of Susan Woodroffe as appears from many accounts, and especially Herbert's.

[87] See Appendix I. and N. & Q., sixth ser. xii., 136; eighth ser. iv., 216. Addis, Probert's smart and comely lad, revisited as an old man in 1885, "The scene of his early notoriety," per Sir W. Fraser.

Gill's Hill Cottage.

After a contemporary lithograph.

murder as the proletariat would appreciate; the "Desperate and short-sighted wickedness" of it might not disgust the rabble. What perplexes is that men of great refinement felt the charm as well. Was it that the story revealed altogether lower depth of merely sordid criminality than had ever been sounded before? Was it the contrast between the nadir of moral degradation attained by the assassin and the zenith of respectability of some of his relations? Was it the theatrical and meretricious quality of the defence? Whatever the cause or combination of causes, this murder, in which guilt was so transparent and the romantic element so lacking, excited England not only more than any other single crime ever has, but more, if we can judge by the columns devoted to it, than some of the great events of history which occurred about that time. Weare's funeral was described at far more length than the illustrious Erskine's, which happened during the fever of excitement the Gill's Hill story had called forth.

To the criminologist of to-day, the murder is not very absorbing. The personalties of the criminals contained nothing psychologically puzzling. The murderer himself was just one of those favourite sons of a doting mother, whose early faults condoned have carried them with ever-hastening feet along the primrose path.

> And all our yesterdays have lighted fools
> The way to dusty death. . . .

He displayed occasionally those superficially amiable qualities which, at least in doubtful company, may win a bastard popularity and sometimes earn the title of a "good fellow" for the least estimable of men. Like many another whose means of livelihood are criminal or fraudulent, he was free with money—when he had it. It is scant charity to bestow eleemosynary doles from wealth that should never have been yours. Palmer was far from niggardly with the sums realised from his insurance murders. Nothing more conclusively demonstrates the criminal character of Thurtell than his passion for notoriety. Incapable of achieving honourable fame, he did not blush to be numbered among the Newgate Calendar heroes. The enormous public excitement he had aroused and his fame as an orator were as pleasing to him as to Lacenaire a few years later. Of his two associates it is needless to speak a word. They possessed the lineaments of human beings, and there all resemblance between them and human nature ceases. Burke and Hare seem angelic beings beside them.

Excuses have been made for Thurtell on the score of supposed injuries received by him at Weare's hands. Such will not bear a critical scrutiny. The murderer had no doubt to buy his experience, when he first began to frequent gambling hells. But this was some years before the murder. He had been intimate with his victim throughout, and by continuing to associate with him plainly showed that, though he might have been a pigeon at first, he was afterwards his co-adventurer in villainy. He was perfectly aware that Weare was likely to have £2000 or thereabouts on his person, and no one who reads the various law proceedings can fail to be persuaded that John Thurtell stood in October, 1823, in imperative need of a large sum of money, just as Palmer did when he killed Cooke (and that Weare was selected, not in revenge for injuries, but because he was known to carry the "blunt" on his person. As to the division of the spoils, who can doubt that, as Sir Walter put it, the murderer "bucketed his pals"? He had admittedly searched the body before Probert and Hunt came up, and had then taken the watch and the purse. When he again searched it, he produced the pocket-book containing three five-pound notes, saying, "This is all he has got." Is it not most palpable that he had left those notes there as a blind when he rifled the body of the bulk of its booty?[88]

Yet, for all its commonplace ruffianism, the Gill's Hill murder is not without interest for the student of to-day. The picture of life and manners less than a century ago—the brutality of the prize ring, the free libations to Bacchus (even the witnesses being mostly intoxicated), the cumbrous and antiquated legal procedure, the "horse expresses" upon which a greedy public was dependent for its daily budget of horror, the broadsides, and the ghastly publicity of the execution and dissection—how strikingly does all this bring out what is meant by a century of progress. What a different England was that of George IV. from the England of George V. to-day! To those who believe in the reality of human advancement, the amelioration of social institutions which the comparison reveals is no slight compensation for the distress with which they must read a story exhibiting on every page of it the lowest degradation of which our nature is capable.

[88] Weare's solicitors knew the numbers of missing notes to a considerable amount, and advertised them in the papers. They were never traced.

Leading Dates in the Thurtell Case.

1794, December 21—John Thurtell born.

1809, May 8—Thurtell receives a commission in the Marines.

1814, June —Thurtell resigns his commission.

1818, —Thurtell takes up his residence in London.

1821, February 5—Failure of Thurtell and Giddens.

1822, December —Fraudulent insurance of Thomas Thurtell's premises in Watling Street.

1823, January 26—T. Thurtell's premises destroyed by arson.

June 25—Action of Thurtell *v.* Beaumont. Verdict for Plaintiff.

October 24—Murder of Weare.

29—Arrest of Hunt and Thurtell.

31—Opening of inquest on Weare's body.

November 1—Thurtell, Hunt, and Probert committed on Coroner's warrant. Burial of Weare.

16—(according to L. J. (O.S.) C. P. 4, it was November 11) Rule *nisi* for new trial of Thurtell *v.* Beaumont.

19—Rule for a *mandamus* to the Hertford Justices, and for a criminal information against the proprietor of the Surrey Theatre.

December 4—Opening of Special Commission for trial of Thurtell, Hunt, and Probert.

5—Trial adjourned.

1824, January 6—Trial of Thurtell and Hunt opened.

7—Prisoners convicted.

9—Execution of Thurtell.

February 11—Rule *nisi* in Thurtell *v.* Beaumont discharged.

March 16—Hunt transported.

June 3—T. Thurtell and others convicted of conspiracy.

1825, June 20—Execution of Probert for horse-stealing.

THE TRIAL.

HERTFORD WINTER ASSIZES.

TUESDAY, 6TH JANUARY, 1824.

Judge—

MR. JUSTICE PARK.

Counsel for the Crown—

Mr. GURNEY.
Mr. BOLLAND.
Mr. BRODERICK.
Instructed by Mr. JOHN JENKYNS.

Counsel for the Prisoner, John Thurtell—

Mr. ANDREWS.
Mr. PLATT.
Mr. CHITTY.
Instructed by Mr. JAY and Mr. FENTON.

Counsel for the Prisoner, William Probert—

Mr. C. F. WILLIAMS.
Mr. CHARLES PHILLIPS.
Instructed by Mr. WILLIAMS.

Counsel for the Prisoner, Joseph Hunt—

Mr. THESIGER.
Instructed by Mr. HARMER.

Acquittal of Probert.

As soon as the prisoners were placed at the bar, Mr. Thesiger applied to his lordship to postpone the trial of Hunt, with a view to his admission as King's evidence. He supported the application by reading affidavits by Hunt and by Mr. Noel, attorney-at-law, and Messrs. Clutterbuck, justices of the peace; but Mr. Gurney, for the Crown, opposed the application, and showed his learned friend affidavits which were not read, to the effect that Hunt had not fully disclosed to the justices or to the coroner the material facts within his knowledge, misrepresenting himself as an accessory after the fact only. After argument, Mr. Justice Park declined to entertain the application, concluding, "Let the trial then proceed."

Mr. KNAPP (Clerk of the Arraigns) addressed the three prisoners severally, and in the usual form acquainted them that the good men that they would hear called, and severally that did appear, were to pass between them and the King, upon the trial of their several lives or deaths; and that, if they meant to challenge them, or any of them, they must challenge them as they came to the Book to be sworn, and before they were sworn, and they should be heard.

The panel was then called over, and, after several peremptory challenges on the part of the prisoner Thurtell and two peremptory challenges on the part of the Crown, the following gentlemen were sworn on the jury:—Thomas Brown, of Wynyard, gentleman, foreman; Thomas Buck, brazier, of Bishop's Stortford; Reginald Jennings, maltster, of Bishop's Stortford; Richard Pryor, gentleman, of Bishop's Stortford; George Starke, gentleman, of Bishop's Stortford; Charles Fox, gentleman, of Hitchin; John Russell, shoemaker, of Hitchin; Thomas Chalkley, gentleman, of Stevenage; William Foldby, gentleman, of Stevenage; John Hopewell, tanner, of Chipping Barnet; Samuel Pritchard, yeoman, of Bramfield; William Kimpton, yeoman, of Barkway.

The CLERK OF THE ARRAIGNS charged the jury on the indictment against the prisoners John Thurtell and Joseph Hunt, and then further charged the jury on the coroner's inquisition with the prisoners—John Thurtell as guilty of the murder, and Joseph Hunt and William Probert as accessories of the murder before the fact—to which charges the prisoners had on a former day severally pleaded not guilty.

Mr. GURNEY rose and stated that it was not his intention to offer any evidence against the prisoner Probert, who was thereupon acquitted by the jury, upon Mr. Justice Park's direction, and removed from the dock. Mr. Justice Park then ordered all but the medical witnesses out of Court, and Mr. Broderick having "opened" the indictment—

Opening Speech for the Prosecution.

Mr. Gurney

Mr. GURNEY—May it please your lordship, gentlemen of the jury, we are assembled for the trial of these prisoners, after a delay which has been mercifully conceded to them, in consequence of an application made to his lordship by their counsel. That application was founded upon an affidavit, in which it was sworn that there had been a great excitation of public opinion, which had not at that time subsided, and it was thought by his lordship that it would conduce to the more satisfactory administration of justice to grant the prayer of the prisoners. The time which has since elapsed has, no doubt, had a beneficial effect, and you are now assembled in that calm and temperate state of mind which will enable you to administer justice with perfect satisfaction to yourselves and to the country.

It is most important that criminals should be punished, in order that crime may be repressed. There is but one thing of more importance, which is, that innocence should be protected. This great principle is considered by the law of England; it is, in fact, a distinguishing characteristic of the law of this country. In vain would all the other interests of a country be protected if there were any deficiency in those safeguards which ought to be provided for the security of innocence against unjust accusation. We have, therefore, as a protection to human life, in the first place, the invaluable institution of a coroner's inquest, the country making immediate inquiry on the spot in all cases of death produced by violent means; we have the security of inquiry before the magistracy; and such a magistracy as no other country can boast; we have the inquiry before the grand jury; and, lastly, you are assembled here, under the direction of the highest legal authority, to hear the evidence on one side and on the other, and, finally, to pronounce upon the guilt or innocence of the accused. You are to pronounce your verdict on the evidence, and on the evidence alone; you are to forget all that you may have ever heard or read on the subject which is probably erroneous, and which is, at all events, unsupported

by proof; you are to come to the consideration of this case with pure and dispassionate judgments, to hear the evidence, and on that evidence a true verdict give. Mr. Gurney

Gentlemen, the crime with which the prisoners stand charged is one of great enormity. It is a crime attended by circumstances of no common atrocity. One of the prisoners is charged with having committed a murder, and the other with having been privy to the intention of committing it, and with having procured, or advised and assisted in its commission. It is a crime committed with premeditation, and attended with every circumstance which can most aggravate its enormity; but in proportion to the enormity of the crime ought the strength of the evidence to be convincing; and I shall not ask you to pronounce a verdict of guilty but upon such evidence as can leave no fair or rational doubt in the mind of any man as to the guilt of the prisoners. Indeed, when you consider the nature of the crime, and the circumstances of aggravation which attend it, you will naturally call for stronger evidence than usual, because it will require very strong proof to convince any man that a crime should be committed under such circumstances as those which I shall have to lay before you. If these prisoners are guilty of the crime with which they are charged, they are guilty of murdering a man with whom they were living in habits of intimacy, if not of friendship. It has been alleged by one of the prisoners, as matter of excuse, that the deceased had done him some injury. Whether he had or not, God only knows; but the other prisoner had never sustained any injury from the deceased, and it will appear that their unsuspecting victim was inveigled into the place where the crime was perpetrated under the specious pretence of friendship.

Murder, gentlemen, is a crime generally committed under circumstances which prevent us from bringing forward the testimony of an eye-witness of the crime. The murderer chooses his time, his place, his opportunity. He chooses the time at which he thinks, at least, that no human eye can see him, no human ear can hear him, and it is, therefore, in general most difficult to convict him by the evidence of an eye- or ear-witness. We are compelled, therefore, in most cases of murder to resort to circumstantial evidence; and a well-connected chain of such circumstances, all tending to prove the guilt of the person charged, is not less conclusive than the positive testimony of an eye-witness.

There is another species of evidence by which criminals are frequently reached, namely, the evidence of an accomplice.

Mr. Gurney It is undoubtedly desirable that all the parties concerned in the commission of any atrocious crime should be reached by the arm of public justice, but it is not always possible, and we are frequently obliged, for the purpose of reaching those who are most guilty, to receive the testimony of those whose guilt in the transaction may be somewhat less in degree.

After a very full and anxious consideration of this case, my learned friends and myself determined to submit to his lordship the propriety of admitting one of the persons charged with this offence as an evidence for the Crown. This is the person whom you have just acquitted. Some observations have been made with respect to the case of another of the persons who stands charged with this offence, and I am anxious to say that, in the case of this prisoner, no breach of faith whatever has been committed. Faith is to be kept on both sides in these cases; and, if a prisoner does not perform the condition on which alone his testimony can be received, he has no claim to mercy. Gentlemen, the person whom you have just acquitted will be called before you, for the purpose of proving many important circumstances connected with the murder of Mr. Weare.

It appears that the deceased was a person addicted to play, and connected with persons who were also in the habit of gambling. Whether the deceased was the most estimable or the least estimable member of society will form no part of your consideration. The prisoner, John Thurtell, was acquainted with the deceased; he was addicted to similar habits of play, and it seems that he had some reason to complain of the deceased having, in some play transaction, tricked him out of a considerable sum of money. The other prisoner (Hunt) was, as I understand, a public singer. He knew Mr. Weare, but was not in any habits of friendship with him. The person whom you have just acquitted, Probert, had been a dealer in spirits and wines, and at the time in question had a cottage in Gill's Hill Lane, a by-lane going out of the road from London to St. Alban's, and about 3 miles distant from Elstree. Gentlemen, the circumstance of Probert's having this cottage is, as you will see, materially connected with the crime with which the prisoners are charged. Probert was much in town, and his wife resided at the cottage. The cottage was but a small one; it had but little accommodation, and was fully occupied by its inmates, consisting of Mrs. Probert, Miss Noyes (a sister of Mrs. Probert), some children of Thomas Thurtell, a maid-servant, and a boy. It would seem, from what subsequently took place, that Mr. Weare had been invited, or, at

least, had made some engagement with Thurtell to go down into the country for a few days' shooting. Mr. Gurney

A few days before the 24th of October, which is the day on which the murder was committed, the prisoner John Thurtell had met Mr. Weare at some billiard rooms which were kept by a man named Rexworthy. On the night before the 24th, that is, on Thursday night, Thurtell and Hunt had met Mr. Weare at these same rooms of Rexworthy; and in the forenoon of Friday Mr. Weare was also with Rexworthy. Mr. Weare went home to his chambers at Lyon's Inn, which is adjacent to the Strand, took a chop dinner, and afterwards packed up in a green carpet bag a change of linen, and other things necessary for an excursion of a few days. He took a double-barrelled gun, a backgammon board with men and dice, and with these things he got into a hackney coach, which was procured for him by his laundress, and left Lyon's Inn between three and four o'clock in the afternoon. He drove first to Charing Cross, then to Maddox Street, near Hanover Square, and afterwards to the New Road. He went out of the coach in the New Road, and after some time came back with another person, whom he took into the coach with him. He departed undoubtedly with a view to proceeding to Probert's cottage, but it was intended by his companions that he should never reach that cottage alive.

I must now state some circumstances which took place previous to the commission of the crime. The prisoners Thurtell and his brother were in habits of great intimacy with Probert, and they were at this time desirous of a temporary concealment in consequence of their inability to procure bail on some charge foreign to this indictment. A lodging had been procured for them at the house of Tetsall, the landlord of The Sign of the Coach and Horses, in Conduit Street, Hanover Square, by Probert. They had occupied this lodging for two or three weeks before the murder took place, and they continued to occupy it for some days afterwards. On the morning of Friday, the 24th of October, two men, answering in every respect to the description of Thurtell and Hunt, went to a pawnbroker's in Marylebone and purchased a pair of pocket pistols. In the middle of the same day Hunt hired a gig at one place and a horse at another, under pretence of going to Dartford, in Kent. At one of these places he inquired where he could procure a sack and a rope; he was directed to some place over Westminster Bridge, and in some place or other he did procure a sack and cord. Hunt, John Thurtell, Thomas

Mr. Gurney Thurtell, Probert, and Noyes all assembled at the Coach and Horses in Conduit Street the same afternoon.

I beg, however, to be distinctly understood that I have no reason to believe that either Thomas Thurtell or Noyes were privy to the guilty purpose which the others had at this time determined to execute. Some conversation, however, took place, which subsequent events explain, such as Hunt's observing that Thurtell was going about something, and asking Probert whether he would be in it, with some other expressions which you will hear in the evidence of Probert. Hunt having prepared all that was wanted in the gig, announced to Thurtell that everything was ready, and Thurtell left the house between four and five alone, having previously requested Probert to bring Hunt down with him, as he (Thurtell) was to take up a friend, "to be killed as he travelled with him," an expression which Probert said at the time he believed to have been a piece of idle bravado. He requested Probert to bring down Hunt in his own gig.

It is material to bear in mind that there was very little accommodation in Probert's cottage, and none, in fact, for the reception of company. On that evening Thurtell was seen in that (Probert's) gig, with a roan iron-grey horse, with white cheeks and white legs, of so remarkable a description, in short, that it was impossible for any person who had seen it not to be able to identify it. He was seen by the patrol on the road short of Edgware, afterwards beyond Edgware, by the landlord of a public-house, and from this time until he arrived at Probert's cottage, on the same night, he was not seen by any witness who could speak positively to his person, except at the public-house, where he was distinctly seen with a gentleman in the chaise with him.

Probert had a horse and gig of his own, and he and Hunt set out in this gig some time after Thurtell left the Coach and Horses, and, having a better horse, overtook Thurtell and the other (Weare) on the road. Probert and Hunt passed them on the road afterwards without notice, and stopped at three different public-houses, and it is supposed that, while they were stopping at one of these public-houses, Thurtell and Weare passed by in the gig unperceived. They loitered for some time, expecting Thurtell and Weare to overtake them. They at length proceeded, and when they arrived at a place called Phillimore Lodge, about a mile beyond Edgware, Hunt got out of the gig by Thurtell's desire, as he said, and Probert drove towards home, when he met Thurtell on foot also in a lane near his

house. Thurtell inquired for Hunt, and, on being told that he was left behind, he said he had done it without his assistance, for he had killed " that Weare." He then desired Probert to return and fetch Hunt. Probert returned, found Hunt nearly where he had left him, and, upon his telling him what Thurtell had communicated, Hunt said that it was to have been done on that spot, admitting his privity, and that he had got out of the gig for the purpose of assisting Thurtell. Probert took back Hunt with him; and Thurtell, on meeting them, reproached Hunt with not having been punctual to his appointment. Hunt said that it was no great consequence, for that he (Thurtell) had the tools. Thurtell replied that the pistols were no better than pop guns, for he had fired them in his companion's face without success, as the bullets glanced off, for Weare got out of the chaise and ran away, crying out that he would give Thurtell back his money, provided he would spare his life; that he (Thurtell) followed him, overpowered him, and cut his throat, in the hope that that would prove effectual; but finding that this was not sufficient, he ran the pistol into his skull, turned it through his brains, and in this manner succeeded. Mr. Gurney

It will be shown that at about eight o'clock on that night a gig had been driven by Probert's cottage at a great rate. A few minutes after eight o'clock two persons saw two men answering the description of Thurtell and Weare in a gig in the lane; at about five minutes from that time, and at the distance of 300 or 400 yards from the spot, some other persons heard the report of a gun or pistol, and subsequently the voices of two persons, as if in contention, succeeded by groans, which became deeper and deeper, until at last they died away. The spot from which these groans proceeded was Gill's Hill Lane, at the distance of about a quarter of a mile from Probert's cottage.

Now, you will find that Thurtell arrived at about nine o'clock at Probert's cottage. He had set out from Conduit Street about five o'clock, and the journey should not have occupied much more than an hour under ordinary circumstances; he was seen afterwards on the road to Edgware, and he arrived alone at Probert's cottage, bringing with him the double-barrelled gun, the green carpet-bag, and the backgammon board, which Mr. Weare had brought with him. He gave the horse to the boy, who observed that it looked as if it had been heated and cooled afterwards, which answers exactly to the fact of Thurtell having stopped a considerable time on the road, instead of proceeding directly on his journey from London. The boy inquires after Probert and Hunt, and was told that they would soon be at

Mr. Gurney

the cottage. Probert and Hunt arrived together in the gig, as I have before stated. They rode, while Thurtell, who went to meet them, walked with them. It appears that neither Thurtell nor Hunt was expected by the family; Thurtell introduced Hunt, the singer, to Mrs. Probert. Preparations were made for supper; some pork chops were ordered, and after sitting a very short time they went out under pretence of calling on a neighbour of the name of Nicholls, who lived at some distance. Their real object, however, was not to call on Mr. Nicholls, but to go to the spot where the murder had been committed.

Thurtell dragged the body through a hedge into the lane; the body was enveloped in a sack, which came over the head down to the knees. Thurtell rifled the pockets of the deceased, and informed his companions that he had in the first instance taken a fourth part of the property, and they came back together to Probert's cottage; Thurtell procured a large sponge, and on his return he went into the stable and sponged himself over with great care, in order to wipe out the spots of blood, many of which were distinctly seen by Probert's boy.

The party supped. In the course of the evening Thurtell produced a gold watch chain, of which it will be shown that he certainly was not before possessed. It was a double chain, which might be used either for a gentleman's watch or, if worn singly, for a lady's neck. It was remarked that this chain was fitter for a lady than a gentleman, and Thurtell upon this made a present of it to Mrs. Probert, and placed it round her neck. Mrs. Probert afterwards proposed to make an arrangement for accommodating Thurtell and Hunt, by Miss Noyes giving up her bedroom and sleeping with the maid or the children. They, however, preferred sitting up, and Miss Noyes shortly afterwards retired to her own bed. Something had excited suspicions in Mrs. Probert's mind; for it is scarcely possible for persons engaged in a criminal transaction not to discover their guilt by some disorder in their conduct, and accordingly she determined not to undress herself or go to bed. She went to the window, and saw Thurtell, Hunt, and Probert all together. What they did will be precisely stated to you in the evidence. When they went to the body, they found it too heavy to remove themselves; one of the horses was therefore taken from the stable, the body was thrown across it, brought to the garden, dragged through the garden to a pond, stones were put into the sack, and the body thrown into the pond. Mrs. Probert will state that she saw something dragged across the garden

where Thurtell was, which she supposed to be a corpse. After this they returned to the house. Mrs. Probert's suspicions and fears were excited by what she had observed; she came downstairs and listened at the parlour door. They divided the contents of the purse and pocket-book of the deceased—Thurtell allotting to each man his share of the booty, which amounted to five or six pounds. The purse, the pocket-book, and certain papers which might lead to detection were carefully burned. They remained up till six o'clock in the morning, and Probert, on going into his bedroom, found his wife still dressed. Mr. Gurney

Hunt and Thurtell remained a short time in the parlour, and then went out together to the lane as early as six o'clock. They found a man at work in the lane, whose attention they endeavoured to divert, when observed "grabbing" for something in the hedge, by saying that they had been nearly capsized in the gig the night before. The man thought that all was not right, and, on examining the spot, he observed a quantity of blood. On searching further he found a bloody knife and a pocket pistol, which will be found to be one of the pistols which Hunt purchased on the morning of the murder, with marks of blood and human brains.

On the following morning, Saturday, the 25th of October, Thurtell and Hunt left Probert's cottage in the gig which Hunt had come down in, carrying with them the gun, the carpet bag, and the backgammon board belonging to Mr. Weare. I shall also prove to you that the backgammon board and carpet bag, which were the property of the deceased Mr. Weare, were subsequently found in the possession of the prisoner Hunt, at the Coach and Horses. It will also be shown to you that on 26th October, the Sunday following the commission of the deed, the prisoner Thurtell, his brother Thomas Thurtell, Noyes, and Hunt went down to spend the day at Gill's Hill Cottage. On their arrival there Hunt went upstairs. He had been dressed so very shabbily on his arrival that it was made the subject of observation; but when he came downstairs he appeared dressed in very handsome clothes. Those clothes were the property of Mr. Weare, the deceased. It was also a remarkable fact that, on the Saturday night before, Hunt bought a new spade, which he took down with him to Probert's cottage, no doubt for the purpose of burying the body.

It will be proved to you also that in consequence of Probert having communicated to Thurtell and Hunt the conversation he had with Mr. Nicholson respecting the report of a pistol or gun shot being heard in the lane, the alarm of the prisoner

Mr. Gurney Thurtell was excited, so much so that he expressed his fears of being hanged. These alarms most naturally excited the apprehensions of all the parties.

Probert was determined that the body of Mr. Weare should not remain in his pond; he well knew that if the body had been found there he would be charged with the murder. He insisted therefore on its removal. The result was that the prisoners, Thurtell and Hunt, promised to remove it on the Monday following. The prisoners returned to town in two gigs, and with the view of removing every possibility of evidence as to their conduct in removing the body, they took Probert's servant boy in one of them, a lad wholly unacquainted with London. On his arrival there, Hunt took the boy about from place to place, and at last left him at Tetsall's, who keeps the Coach and Horses public-house, in Conduit Street, where he remained until the next Wednesday.

Thurtell and Hunt returned, according to arrangement, to Gill's Hill Cottage at ten at night; while Hunt kept the women in conversation, Probert and Thurtell drew the body out of the pond. It was then put into Thurtell's gig, and Hunt and he drove off to depart, but where Probert did not know. It will be proved to you in evidence that the body was taken to a brook a short distance on the northern side of Elstree, where it was deposited or sunk in the same manner as it was before in Probert's pond. The state of the gig in which the body was so taken told the story of the manner in which it was employed. Its bottom was found in the morning covered with mud and blood.

These are details on which I feel it wholly unnecessary to enlarge; they will be more impressively submitted to your consideration by the respective witnesses who will be successively called as to the respective occurrences. The rumours that were afloat in the vicinity, in consequence of the report of a pistol or gun shot having been heard in the lane soon reached the ears of the magistrates; and, in consequence of certain communications, Thurtell, Hunt, and Probert were apprehended.

Another expedient, on the part of Hunt, to evade, if possible, all evidence of his identity, was to be discovered in the very change he had made subsequently in his appearance. Up to the Monday, when the body was removed, he wore very large whiskers; these he immediately shaved off. It is almost needless to say that perhaps there is no expedient better calculated to answer its object. Nothing can effect so great a change in the human appearance as the removal of such a

portion of hair from the face, particularly where the whiskers were very large. Mr. Gurney

As I before stated, rumours were circulated relative to a supposed murder; inquiries were instituted, but as the body had not at that time been found, it was impossible to ascertain who the murdered person was. It was, however, found on the Thursday following by persons to whom the place where it was deposited was shown by a person.

I will not give in evidence any part of any supposed confession of the prisoner Hunt, save the fact which subsequent inquiry had proved to be true, and to that extent I am justified by the law. If, for instance, a party, charged with having stolen goods, acknowledges that at a certain place those goods are to be found, I am at liberty to give in evidence that declaration, when followed by the fact of their being so discovered. To that point I shall confine myself, determined not to allude to any other part of a confession which might have been made under inducements either of hope or of fear. Not one word more of that confession shall I advert to; but I am not to be understood as saying that I shall not give in proof the declarations of the prisoner Hunt to his associates relative to these transactions.

I have now, gentlemen of the jury, detailed to you the principal facts which it is my duty to establish by competent evidence. Some of those facts will be brought before you on the evidence of an accomplice, for an accomplice Probert undoubtedly is, though not previously privy to the commission of the murder. He was, however, subsequently privy to the concealment, and is, in the full extent, to be considered as an accomplice. I go farther, and admit that he is a man of disreputable character and conduct—that he is a bad man; but I ask what good man could be connected with such foul deeds? Where were we to find men of honest character to establish a co-operation in such acts? He is therefore an admitted accomplice; and it will become your duty to weigh his statements with considerable caution and jealousy. You will give your full attention to everything he will tell you; and, if I mistake not, I shall so surround these statements with confirmatory evidence as to build up his testimony to your fullest satisfaction. By other witnesses I shall prove to you that Thurtell set off from London, with a companion, to go to Probert's; that the companion did not arrive at his destination; that on the same night the report of a pistol or gun shot was heard in a lane in the neighbourhood; that, on that night,

Mr. Gurney the prisoner Thurtell appeared, having his clothes bloody; that, even at the time of his apprehension, the bloody stains were not effaced from his clothes; that a penknife, belonging to the deceased Mr. Weare, was found in his pocket; that the fellow-pistol of the pair bought at the pawnbroker's at Marylebone, and one of which was found in the lane near Gill's Hill Cottage, was also in his possession. All these circumstances I shall establish by such evidence as (regarding the prisoner Thurtell) not to leave a doubt that it was by his hand the deceased met his death.

With respect to Hunt, it will be proved to you that he was an accessory before the fact, that he was privy to its commission, and advised and aided in its perpetration. It will be shown that he came that night unexpectedly to Gill's Hill Cottage; that he was a stranger to Mrs. Probert and her family; there was not for him, as there was for Thurtell, an apology for his visit; that he had hired a gig for Thurtell, with the pretext of proceeding in an opposite direction; that he had purchased a sack (do remember that, for it is most important), which he took down with him to Gill's Hill Cottage; that, subsequently to the murder, the carpet bag and backgammon board were found in his possession, being the property of Mr. Weare; they were part of the plunder, and could only be possessed by a person participating in the crime. On Mrs. Probert's person was found also a gold chain, the property of Mr. Weare. From her you will learn how that chain came into her possession. Attached to the sack which enclosed Mr. Weare's body was a red silk handkerchief; I shall show you that Thurtell had such a handkerchief in use about the time of the murder.

You are now, gentlemen, in possession of all the material facts of this case. In laying them before you, my great anxiety has been to forbear from stating anything which I do not believe will come out in evidence. One thing further I have only to add; I adverted to a watch, the property of Mr. Weare, which has not been found. It will appear, however, in evidence, that the prisoner Thurtell declared to one of the police officers, in whose custody he was, and who asked him respecting the watch, that in the course of their travelling in the gig, he (Thurtell) had put his hand behind him and chucked the watch over. He, at the same time and to the same persons, made another disclosure as to the co-operation of persons residing in the neighbourhood and close to the spot in the perpetration of the act; but he forbore to mention their names. In the review of this mass of evidence, if any doubts should arise in

your minds, you will, as you are bound in conscience to do, give the prisoners the benefit of them; but if the case shall be established clearly and satisfactorily, you will find that verdict which the well-being of society and the demands of justice require. Mr. Gurney

Evidence for the Prosecution.

John Beeson, examined by Mr. Bolland—I went in search of a body with Ruthven and Upson, two Bow Street officers; the prisoner Hunt was with us. We went to Aldenham, and found the body in a brook called Hill Slough, near Elstree. Hunt pointed it out; the body was concealed in a sack; the head was downwards in the sack; there was a rope fastened round the sack; the length of the rope was 2 or 3 yards; there was a stone tied to the end. I was not present when the sack was opened. It was carried to the Artichoke public-house, at Elstree. John Beeson

Cross-examined by Mr. Andrews—The pond was a quarter of a mile from Elstree; it was to the right-hand side of the road coming from Elstree towards Radlett; I am acquainted with the roads about Gill's Hill. There is a road branching off towards Watford, with a finger-post direction pointing that way. Pursuing that road, you pass a cottage, where a person named Hunt lives; the road divides, one leading to Radlett and the other to Probert's cottage at Gill's Hill. A man ignorant of the road might mistake his way. He might, however, return again on the road to Probert's cottage, though he went by mistake to High Cross. It would be a circuitous passage. Even if a person went to Radlett, he might turn to the right and get to Probert's cottage. The roads are very bad and very narrow. If a person met anything in his way while driving he must back out. A man not knowing the road might mistake; these roads are hilly, and a person, ordinarily speaking, must drive slow.

Cross-examined by Mr. Thesiger—It was on Thursday, the 30th of October, four persons went to find the body; the place where it was found was 2 miles from Gill's Hill. They searched in a body; I mean all together. They searched nearly for five minutes. It was about two minutes after the place had been pointed out. The body was found nearly in the centre of the pond. It was possible for any person to place the body in the pond without walking in. Two men might have swung the

John Beeson

body in; one man could not have done it. The weather was wet, and the pond was consequently full. I saw Mr. Hunt point out that pond as the place where the body was. The pond altogether was as large as the table of the Court. There was a short piece of the rope round the sack loose. The rope was twisted round the sack in a careless manner. The handkerchief was outside of the sack, and the stones were concealed in it.

Robert Field

ROBERT FIELD, examined by Mr. BRODERICK—I keep the Artichoke public-house at Elstree. I remember a dead body being brought to my house on Thursday, 30th October. I saw the body drawn out of the pond; it was covered with a sack, and that was fastened by cords. The rope was bound round the neck, the middle, and the feet with a handkerchief tied to the end full of stones; there were 2 or 3 yards of the rope more than was wrapped round the body. That body was afterwards shown to Mr. Rexworthy, and he said it was the body of William Weare.

John Upson

JOHN UPSON, examined by Mr. GURNEY—I am an officer of Bow Street. I was present at the examination of the prisoners at Watford; it was on a Wednesday or Thursday. I had a conversation with Thurtell after the body was found; I went in search of the body. I went to the place where it was found by the direction of Hunt. We went first to one spot, and Hunt said, "That is not the place." We then went to another. We had a pole, and tried without success. A man passed with a ladder, and Beeson went on the ladder to drag. Hunt pointed with his finger, and said the body was farther out. The body was found, and taken on the ladder to the Artichoke. I was not present when the body was examined.

W. Rexworthy

WILLIAM REXWORTHY, examined by Mr. BRODERICK—I keep a billiard room at Spring Gardens, London, and was intimately acquainted with the late Mr. Weare. I knew his body when I saw it as it lay dead at the Artichoke, at Elstree. I have no doubt that the body which I saw there was Mr. Weare's.

Cross-examined by Mr. ANDREWS—The body was in a putrid state when I saw it at the Artichoke. The face was then visible, and I observed that there was the mark of a pistol on the left side of the head; I mean the mark of the muzzle of a pistol. I saw no blood about the body. It was in a state for me to speak to it with certainty as the body of Mr. Weare.

I knew him as perfectly as if he had been living. I don't know on what day of the month it was that I saw the body, but it was on a Friday. I knew him for sixteen years previously; and at the time I now speak of I don't think I ever expressed any doubt about the body being that of Mr. Weare. Most certainly I was as clear of the fact at the time of my first examination as I am now. W. Rexworthy

RICHARD WEARE, examined by Mr. BOLLAND—I had a brother named William; he had no other Christian name. I saw a corpse at the Artichoke, at Elstree, before the coroner; it was on the day Mr. Rexworthy saw it. It was the body of my brother William. Richard Weare

THOMAS ABEL WARD, examined by Mr. BRODERICK—I am a surgeon at Watford. I examined a dead body lying at the Artichoke, at Elstree. On the day of the inquest I examined the head of the body. There were many marks of violence about the left temple, which had been occasioned by some round, blunt instrument; they might have been occasioned by the muzzle of a pistol driven with force against it. A pistol was produced before the coroner, and the marks in the scalp corresponded with the muzzle. The wounds had penetrated the scalp of the skull. Near these wounds was a fracture of the skull, with several portions of the bone broken off and driven into the substance of the brain. The pistol produced would have caused such injury, if not fired, but driven into the skull by force. It did appear to me that the injury had been caused by the pistol then produced. The injury to the brain would have produced death. The substance of the brain was penetrated by the bone. There was a mark on the right cheek, which appeared to be a gunshot wound. By gunshot wound is meant any wound produced by a shot fired, whether from gun or pistol, &c. I could not trace this wound deep. It only penetrated through the integuments to the bone of the cheek; it could not have occasioned instant death, or indeed death at all. There was an incised wound on each side of the neck. There were two on the left side and one on the right side. Of those on the left side, one was immediately under the ear, the other further back. The incised wound had been made by some sharp instrument. A knife would have produced them certainly. On the left side the jugular vein was divided by one of the incised wounds. T. A. Ward

Cross-examined by Mr. PLATT—On the left side of the head

T. A. Ward you saw a wound and fracture which must have been effected by a blunt instrument?—Yes.

The instrument by which this was produced must have driven itself through the skull?—Yes.

If the instrument had not been driven by force into the skull the mark of the instrument must have been more apparent on the surface?—Yes.

What was the position of the wound?—The fracture was above the temple, just above the anterior angle of the bone of the skull. The marks where there were not fractures were above that. There were several of them.

Now, is it possible that an instrument with a larger end than that pistol that was produced could have been introduced into the fracture?—Yes.

And produce the same result?—The same result, as far as the fracture goes, could have been produced by a larger instrument. The marks which I have said were above the fracture could not have been produced except by such an instrument as the pistol. They corresponded to the end of the muzzle.

Was the skin forced into the wound?—The skin was not forced into the wound, though it was depressed by the blow that occasioned the fracture; that is to say, it was wounded, but not detached.

What was the size of the wound?—The orifice of the fracture was an inch and an eighth or a quarter in length, and seven-eighths of an inch in width. I can show how it was by drawing it. [The witness drew on a sheet of paper a representation of the wound, and produced from a small box the pieces of the skull which had been forced into the wound, and which he had extracted and preserved. The drawing and the pieces of bone were handed to the bench, and then to the jury.]

Does this (the drawing) describe the external appearance of the wound?

Mr. Justice Park—Mr. Ward has made it plain; this is the fracture of the skull. You mean the fracture, Mr. Ward, and not the wound, do you not?—Yes, my lord.

By Mr. Platt—Then the fleshy orifice was not cut out?—The external skin was broken, but not detached; it was a contused wound.

What was the size of the orifice of this contused wound?—I really do not understand you. There was no interval; I could have brought up the integuments, and closed them entirely, for no part had been detached.

But before it was so stretched?—There was no stretching; the integuments which covered the skull, a solid substance, had been bruised, when forced upon the solid substance which had been broken beneath it by the violence of the blow. The integuments of the skull were not torn away, but were rent in halves, as it were.

Would that drawing you have made denote the size of the aperture if it had been drawn out?—It would have been of considerable size. I could have put my finger into it.

Mr. Justice Park—Mr. Platt, I think the case is very clear. The skull was fractured, the bone produced to us was driven into the brains, and the skin or scalp was rent. I think, Mr. Ward, you have given your evidence very clearly.

By Mr. Platt—Was the rent of the integuments made in that kind of way that a larger instrument could have been forced through?—Certainly.

The jugular vein was divided, which, if not stopped, would produce death, was it not?—Yes.

Was any artery divided?—No.

You could have judged that great hæmorrhage had taken place?—No.

Was there an appearance as if the wound that divided the jugular vein had been inflicted on the living person?—There was every appearance as if it had, and nothing to show that it had not been inflicted on the living person.

Could you say, on your oath, that that wound could have been inflicted after death?—I think it possible.

Have you not the means of judging whether a wound that appears on a dead body has been inflicted during life or after death?—Not after a body has been soaked in water three or four days; the *indicia* are not such that I would trust them in such a case.

Then the body must have been altered by lying in the water?—Yes.

Are not the features more altered in persons dying of hæmorrhage, so as to make it more difficult to recognise them?—Yes, when the hæmorrhage is protracted.

Is the hæmorrhage from the jugular vein protracted?—The bleeding, in the case of a wound of the jugular vein, is uncertain; sometimes it is protracted, sometimes not.

In this case the jugular vein was divided?—Not entirely divided; but the wound was very considerable.

Suppose an individual had been bled to death, and laid for a week in a pond, would it not in such a case have been more

T. A. Ward

difficult for persons to ascertain who that individual was?—It would; but I conceive, from the appearance of the body I saw at Elstree, that if I had known the person in his lifetime I should have recognised him then.

Re-examined by Mr. Broderick—What, in your opinion, was the cause of death?—The injury to the brain by the pistol.

G. Ruthven

George Ruthven, examined by Mr. Bolland—I am an officer at Bow Street. I apprehended the prisoner John Thurtell the Wednesday after the Friday of the supposed murder (the 29th October), at Tetsall's, the Sign of the Coach and Horses, in Conduit Street, Bond Street, London. I found in his coat pocket a pistol not loaded. I found a pistol-key and a knife in his waistcoat pocket, and a key which belonged to an air-gun. I found a muslin handkerchief in a drawer close to the bedside; it appeared to be marked with blood; the marks were just the same then as they are now. In a drawer I found a shirt, stained with blood in each corner of the collar where they project above the neckcloth. I found a black kerseymere waistcoat, with marks of blood on each pocket. I found this on his bed. I found also a black coat, with marks of blood on both cuffs, and a mark on the left shoulder; I found this coat on his bed. I found a hat [produced]; there is a mark of blood now; there was one small mark on another part.

I arrested Hunt at his lodgings, 19 King Street, Golden Square, the same day (29th October). I took no articles out of his lodgings on the Wednesday. On the Thursday night I went again to his lodgings and found a dressing-box and a double-barrelled gun, with the name of the maker, Manton [the gun was produced]. Under the bed I found this sponge [a large sponge was produced]. I found a carpet bag [produced]; it was empty. I found a shooting-jacket, a pair of drab breeches, a pair of gaiters or leggings, one pair of half and one pair of Hessian boots, a cord, two waistcoats, two coloured handkerchiefs, three shirts (two of the shirts were marked—one of them W. W., No. 1, the other W.), one neckcloth, one collar, nightcap, clothes bag, powder flask, clothes brush, turnscrew, bullet mould, and a comb. I have had all these things in my possession ever since.

Cross-examined by Mr. Chitty—When I apprehended Thurtell the door of his room was not fastened. The blood on the shirt collar might have proceeded from a cut in shaving. The drawers in his room were unlocked, but the articles which I found were tied up. It was a public-house in which Thurtell

William Probert.

After a pen and ink sketch by William Mulready, R.A.

lodged. I went there about half-past seven in the morning. Thurtell was in bed when I first entered. There was another person in bed in the room, but not in the same bed with Thurtell. Thurtell made no resistance. G. Ruthven

Cross-examined by Mr. THESIGER—I did not search Hunt's apartment on the day when I apprehended him. When I went on the following day his wife was not at home, and I broke the door of his room open.

HENRY SIMMONS, examined by Mr. BRODERICK—I am the constable of Watford. [He produced a pocket pistol.] It was given me by Mr. Nicholls, of Battler's Green. It was stained as it is now, with the pan down. Besides the blood, there was hair upon it, as there is now. There was a piece of tow in the muzzle, as there is now. I have a small knife. [He produced it.] I had it from Mr. Nicholls. I have a red shawl handkerchief. [He produced it.] I received it from Dr. Pidcock, the younger, on 31st October. I have a gold curb watch chain. [He produced it in a box.] I received it from Mrs. Probert, on 15th November, in the evening. I received a sack from Robert Field, landlord of the Artichoke. [Produced it.] On 24th November I received another from William Bulmer. A piece of a shirt I have, I received from Mr. Thomas Bates. I received these various articles in the presence of the magistrates, and have kept them ever since. [Articles shown to jury.] I received also, on 30th November, a part of a coat and a handkerchief from George Jones. H. Simmons

WILLIAM PROBERT, examined by Mr. GURNEY—I occupied a cottage in Gill's Hill Lane, near the village of Elstree, for about six months before October last. My family usually consisted of Mrs. Probert, her two sisters (the Misses Noyes), my children, myself, a female servant for part of the summer, and a boy. In the month of October only one of the Misses Noyes was at the cottage, but there were two children of Thomas Thurtell there. None of my own children were there at that time. I have been acquainted with John Thurtell for some time past. He has often been with me to my cottage, and has been sporting about the place. He knew the road to the cottage very well, and all the roads about the neighbourhood. Gill's Hill Lane turns out of the high road to St. Alban's, at Radlett; my cottage was about a quarter of a mile from the high road. The nearest road to the cottage from London would be along W. Probert

W. Probert

the high road as far as Radlett, and then to turn down Gill's Hill Lane. My cottage is 14¼ miles from Tyburn Turnpike.

In the latter end of October, and in the week when this business took place, John Thurtell lodged at Mr. Tetsall's in Conduit Street. His brother Thomas lodged there also. They were there every day that week. I did not introduce them to Tetsall. I met them there. On Friday, 24th October, I dined at Tetsall's with Thomas and John Thurtell, Hunt, and Thomas Noyes. Four days previous to the 24th I borrowed £10 from John Thurtell. At the time I borrowed the money he said, "You must let me have it back on the Thursday or Friday." On Thursday, when I saw him at Tetsall's he asked me whether I had the £10 for him. I said that I had not been able to collect it. He said, "I told you that I should want the money to-day or to-morrow, and it will be £300 out of my pocket; but if you let me have it to-morrow it will answer the same purpose." On the next day, Friday, I paid him £5 which I had borrowed of Tetsall. This was after dinner. He then said, "I think I shall go down to your cottage to-night; are you going down?" I said, "Yes." He said, "Then you can drive Hunt down." I answered "Yes." He said, "I expect a friend to meet me a little before five; if he should come I will take him down to the cottage with me; and if I have an opportunity I may do him, for he is a man that has robbed me of several hundreds." He also said, "I have told Hunt where to stop. I shall want him about a mile and a half beyond Elstree to wait for me." He added, "For fear you should not go down to the cottage, give Hunt £1." I did, in consequence, give Hunt 20s. Thurtell said to Hunt, who had just come into the room, "Joe, there is £1; if Probert don't come down, hire a horse; you know where to stop for me." I do not know that Hunt made any answer. Thurtell left the Coach and Horses almost immediately after this conversation in a horse and gig. It was a grey horse with a white face. I believe Hunt brought the gig to the house.

I think that Thurtell left the Coach and Horses a little after five o'clock. I afterwards set off in my own gig, and took Hunt with me. When we got to the middle of Oxford Street Hunt got out of the gig at my request to purchase a loin of pork for supper. When we came to the end of Oxford Street Hunt said, "This is the place where Jack is to take up somebody." We overtook Thurtell about 4 miles out of town. Hunt suddenly said, "Here they are; drive by and take no notice." He also said, "It is all right; Jack has got him." There were two persons in the gig, Thurtell and another. I passed the gig,

and did not speak to Thurtell or his companion. I stopped at a public-house called the "Bald-faced Stag," about 2 miles on the London side of Edgware, at about a quarter to seven. When Hunt said on passing the gig that all was right, I asked what was the name of the person with Thurtell. Hunt said, "You never saw him, and do not know his name." I got out at the "Bald-faced Stag," and had some spirits. I have been a dealer in spirits. Hunt did not go in, but walked on. He said that he would not go in, because he had not returned the horse-cloth which he had borrowed of the landlord. I drove on and overtook Hunt near Edgware. I took him into the gig, and we stopped at a Mr. Clarke's, the White Lion Inn, at Edgware. We went into the bar and took a glass of brandy and water. We stopped about ten minutes at Mr. Clarke's. We stopped again in Edgware, and I bought half a bushel of corn in a sack. It was then about half-past seven. Hunt said that he wondered where Thurtell was; he thought that he could not have passed us. W. Probert

We then drove on to the Artichoke at Elstree, and I think we got there at about ten minutes before eight o'clock.* We sat in the gig, and had about four or five glasses of brandy and water. We were waiting for the express purpose of seeing John Thurtell. We stopped about three-quarters of an hour at the Artichoke. At last we heard the sound of a horse and chaise, and started. We went about a mile and a half, till we came to Mr. Phillimore's lodge; Hunt then got out of the gig and said, "I shall wait here for John Thurtell." I drove on through Radlett towards my own cottage.

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* Clarke, landlord of the White Lion, Edgware, confirmed Probert's statement that he left Edgware about 7-30 (*Post*, p. 96), but Robert Field, landlord of the Artichoke, Elstree, swore that Probert was at his hostelry at 11 minutes to 9 (*Post*, p. 97). From one inn to the other was not above three miles. What was Probert doing during this hour and twenty minutes? Even if 11 minutes to 9 were the time of leaving the Artichoke, after half an hour's stay (*cf.* Field, *Post*), there is fifty minutes of Probert's time not well accounted for. His horse, according to the ostler (who was not called at the trial), arrived at the Artichoke very distressed. Ruthven thought he was present at the murder, holding the heads of the horses, and the witness Freeman, at the inquest, spoke to a gig with a bay horse (though he afterwards identified it as the one driven by Thurtell, which was not bay), being near Probert's cottage about 8 o'clock, and pulling up with the horse much out of wind. We do not print this statement at the inquest. Addis heard a gig driving rapidly by the cottage about a quarter before eight. Mr. Herbert conjectured that Probert was on the scene of the murder at the time of its commission, and then drove round Aldenham Common, entering Elstree just before 9, as if he had come direct from town, his object being to establish an apparent *alibi*.—E.R.W.

W. Probert

When I came within about 100 yards of my cottage John Thurtell met me; he was on foot and alone. He said, "Holloa! where's Hunt?" I told him that I had left Hunt waiting for him near Mr. Phillimore's lodge. Thurtell said, "I don't want him now, for I have done the trick." He afterwards said he had killed his friend that he had brought down with him, and rid the country of a villain who had robbed him of £300 or £400. I said, "Good God! I hope you have not killed the man!" He said, "It is of no consequence to you; you do not know him, and never saw him. Do turn back and fetch Hunt, for you know best where you left him."

I turned, and found Hunt near the spot where I had left him. I took him into the gig and said, "John Thurtell is at my house, and he says that he has killed his friend." Hunt said, "Thank God, I am out of it. I am glad he has done it without me. I can't think where the devil he could pass us. I never saw him on the road anywhere. But I am glad I am out of it." He also said, "This is the place where we were to have done it," meaning near Phillimore's lodge. That was the place where he had got out of the chaise. I asked him who the person was. He said, "You do not know him, and I will not tell you his name." He added "that it was a man who had robbed Jack of several hundred pounds, and he meant to have it back again."

When I came to my cottage John Thurtell was standing at the gate; we drove into the yard, and Hunt said, "Thurtell, where could you pass me?" Thurtell said, "It does not matter where I passed you, I have done the trick, I have done it." He added, "Why the devil did you let Probert stop drinking at his d—d public-houses when you knew what was to be done?" Hunt replied, "I made sure that you were behind; else we should not have stopped."

I took the loin of pork into the kitchen and gave it to the servant to cook. I then went into the parlour and introduced Hunt to Mrs. Probert. Hunt never had been at the cottage before. We went out together. First we went to the stable. John Thurtell said, "Now, I'll take you down to where he lies." I returned to the house and told Mrs. Probert to make ready supper. I told her we were going to Nicholls' to get leave for a day's shooting. I left Hunt and Thurtell in the yard. Thurtell took a sack and cord from the gig. We went down the lane; I carried a lantern. John Thurtell said, "I began to think Hunt would not come." Hunt said, "We should have been in time, but we made sure you were behind." I walked

foremost. Thurtell said, when we were a little further on, "It is just by the second turning." When he came to the second turning he said, "It is a little further on," and then he said, "This is the place." We began to kick the leaves about to look for the pistol and knife. Neither of us could find either of them. We then got over the hedge, and found the body lying there. The head was wrapped up in some sort of a shawl (something like that produced). Thurtell began to search the pockets, and took out a pocket-book, in which were three £5 notes, a memorandum book, and some silver, but no watch or purse. Thurtell said, "This is all he has got. I took the watch and purse when I killed him." W. Probert

We put the body in the sack head foremost. I can't say how low in the sack it came down; he tied it with a cord. It was the sack Thurtell took out of his gig. I can't say if the cord was in the sack or separate when he took it out of the gig. We left the body in the field. We went towards home. Thurtell said, "When I first shot him he jumped out of the gig, ran like the devil up the lane, singing out that he would deliver all he had won off me if I would only spare his life."

By Mr. Justice Park—I think I have heard John Thurtell say that he was in the sea service. The term "singing out" may be used in the Navy.

Examination continued—John Thurtell said, "I jumped out of the gig, and ran after him. I got him down, and began to cut his throat, as I thought, about the jugular vein, but could not stop his singing out. I then jammed the pistol into his head. I saw him turn round; then I knew I had done him. Joe, you ought to have been with me, for I thought at one time he would have got the better of me. Those damned pistols are like squibs; they are of no use." Hunt said, "I should have been there, but we thought you were behind. I should have thought one of those pistols would have killed him dead; but you had plenty of tools."

We returned to the house, and supped. After supper, Thurtell produced a gold watch, in a very handsome double case, I believe. I can't answer exactly. It had a gold chain (like the one produced) attached to the watch. He offered to make Mrs. Probert a present of it, saying it was more fit for a lady than a gentleman. She was some time before she accepted it. The watch he returned to his waistcoat pocket with the seals.

I had one spare bed, and Miss Noyes slept in it then. Mrs. Probert asked them when they would like to go to bed, as

W. Probert Miss Noyes could sleep with Mr. Thomas Thurtell's children, and they could have her bed. They said they would not go to bed; they were very much obliged to Mrs. Probert; they would sleep on the sofa. Hunt sang two or three songs after supper. He is a professional singer. Mrs. Probert and Miss Noyes went to bed about half-past twelve, at the outside. Then Thurtell took out a pocket-book, purse, and memorandum-book; there were some sovereigns in the purse. I can't say how many. He gave Hunt and myself £6 a-piece, saying, "That's your share of the blunt." There were several papers in the pocket- and memorandum-books; they were all burnt. The purse and both the books were burnt. The carpet bag was opened. Thurtell said it belonged to the man he had murdered. It contained wearing apparel and shooting gear; two or three silk handkerchiefs were left out of it. There were a backgammon board, dice, and cards [identifies them], a double-barrelled gun. I don't remember that it had a covering; it was taken out of a case and looked at.

Next day everything was taken away by Thurtell and Hunt. After this Thurtell proposed something else to me. He said, "I mean to have Barber Beaumont and Woods." Mr. Barber Beaumont is an officer of a fire office, with whom he had some controversy. Woods keeps company with Mrs. Probert's sister. This was the general conversation; there might be more names mentioned. Thurtell said, "Joe, we must now go out and fetch the body, and put it in the pond." I said, "By God, you shall not put it in the pond; it may ruin us." Thurtell said, "Had it not been for the mistake of Hunt I should have killed him in the other lane, and then I should have returned to town, and inquired of his friends why he had not come down." Only Thurtell and Hunt went out first. When they came back they said, "He is too heavy; we can't carry him." They were gone a quarter of an hour. They said they had only brought him a little way. Thurtell said, "Will you go along with me, Probert; I'll put the bridle on my horse and fetch him." I went with him to the stable, and left Hunt somewhere about the gate.

We took the grey horse (Thurtell's); we went to the body, and brought it away on the horse to Mr. Wardell's field, near my garden gate. Hunt took the horse back to the stable, and came back to the garden. We dragged the body through my garden down to the pond. We put a few stones in the sack, and threw the body into the pond. I don't think we had a lantern; I can't say what we had done with it. The feet were

perhaps half-above the water. Thurtell took a piece of cord and threw it round the feet, then he gave me the other end. I dragged it to the middle of the pond, and it sank. We all three returned to the cottage, and I went to bed almost immediately. I found my wife up. W. Probert

Next morning I came down about nine o'clock. Thurtell said, while Hunt was present, "Probert, you must go and look for that knife and pistol." I promised that I would, and I did so. When I went down the lane, I saw a man at work near the spot. I could not search then, and returned to the house. That morning they went away in the gig, and took the things with them.

On Sunday they came down again. John Thurtell and Hunt were in one gig; Thomas Thurtell and Noyes in another. They arrived at about twelve o'clock. Hunt brought a bundle of clothes, a newspaper, and a new spade. He said the spade was to bury the deceased. Thomas Thurtell arrived first, and went up the lane to meet John Thurtell in the other gig. Hunt was very dirty when he got down. He asked for a room to change himself. He went upstairs. When he came down he was dressed very well; he had almost new clothes. I learned from Hunt that they belonged to the deceased. Hunt told me he had brought down a spade and thrown it over the hedge into my garden. I went to look, and saw it there. He said it was to bury the body.

After John Thurtell arrived I walked with him in the garden, and he asked me if the body rose? I said no, and he said that it would lie there a month. In the afternoon Mr. Heward called. I went with him to Mr. Nicholls'. After I returned, I told Thurtell and Hunt that Nicholls had informed me some one had fired a gun off in Gill's Hill Lane on Friday night, and that there were cries of "murder," as though some one had been killed. I had asked what time it was, and Nicholls said about eight o'clock; and I said, "I suppose some of your friends wanted to frighten you, sir." Thurtell said, "Then I'm baked." I said, "I am afraid it's a bad job, for Mr. Nicholls seems to know all about it. I am very sorry it ever happened here. I'm afraid it will be my ruin." Thurtell said, "Never mind, Probert, they can do nothing with you." I said, "The body must be immediately taken up from my pond, John." He said, "I'll tell you what I'll do—when they are all gone to bed—Joe and I'll take and bury him." I told him that would be as bad, if they buried him in the garden. John Thurtell then said, "I'll bury him where you nor no one else

W. Probert

can find him." As Thurtell was going out of the parlour Hunt said, "Probert, they can do nothing with you, or me either, because neither of us was at the murder." Hunt and Thurtell sat up all night. I, Noyes, and Thomas Thurtell went to bed. Thomas Thurtell slept with his children.

In the morning John Thurtell and Hunt said they went to dig a grave for the body, but the dogs had been barking all night and they thought that some one was passing. Thurtell said, "Joe and I will come down to-night and take him away; that will be the better for you altogether." Thomas Thurtell and Hunt went away first. My boy, Addis, went with them in one chaise; John Thurtell, Thomas Noyes, and Miss Noyes in the other. I had no use for that boy in London. He was sent that he might not be in the way to answer any questions.

John Thurtell and Hunt came down that evening in a gig. We took supper; I think at about nine o'clock. After supper John Thurtell and I went to the stable, leaving Hunt talking with Mrs. Probert. John Thurtell said, "Now you and I'll go and get the body up; leave him talking with Mrs. Probert, then she'll not suspect anything." We went to the pond, got the body, took it out of the sack, and cut the clothes off. We left the body naked on the green sward, then returned to the parlour, and told Hunt that the horse and gig were ready; it was not so. We came out and went to the stable; John Thurtell went to his gig, took out a new sack, and some cord. We all three returned to the pond, put the body into the sack head foremost, and carried it up to the garden gate. We left Hunt waiting with the body. John Thurtell and I went round to the pond. I carried the bundle of clothes and threw them into the gig. John Thurtell said, "Better leave the clothes here, Probert; there won't be room for them." We took the horse and chaise lower down towards the garden gate, and put the body into the gig. Then I left them. They wanted me to settle the body more in the gig. I would not; I returned to Mrs. Probert. I went out afterwards to destroy the clothes. I cut them into pieces; some I burnt, some pieces I threw about the hedges. I did not put anything into the dung heap. I was taken into custody the day after they left my house.

Cross-examined by Mr. Andrews—I do not know who apprehended me. When I was taken I did not express any desire to become a witness. I cannot say when I first expressed a desire to become a witness. It was after Hunt had made a confession. I can't say whether I was asked to become a witness before or after Hunt's confession. I heard that Hunt had made

a confession, but I don't recollect from whom. The first I heard of my becoming a witness was when I was taken before the grand jury by Mr. Williams, to the best of my recollection. Before that I expected that we were all to be tried. I did not know what was to become of us; I did not know what was to be done to me. I took no pains to become a witness before being taken before a grand jury. I have never seen Mrs. Probert since I left my own house when I was arrested. I don't know of my own knowledge that Mrs. Probert is now here, but I was told so by Mr. Williams, my solicitor. I have had no other solicitor in this transaction. W. Probert

Has not a Mr. Noel been your solicitor?—I am sorry to say that he has.

How long did he act in that capacity?—For a few months in the year 1819.

Has he not acted as your solicitor since that period?—Not that I recollect.

Had you no communication with him in 1823?—Not that I recollect—but I cannot swear that I had not.

You say you heard that some injury was intended to certain persons, and yet you gave no alarm?—I did hear that at my cottage, but I did not believe it.

You must have believed it when you heard of the murder; and, when you saw the dead body brought to your house, did you not give an alarm then?—I did not.

You received the parties into your house after the transaction?—I did.

You supped with them and breakfasted with them in company with your wife on the following morning?—I did.

Were you sober then?—I was.

And yet you did not spurn them, and kick them from your house?—I did not.

Did you tell Mrs. Probert what had happened?—I did not.

Did Mrs. Probert not appear disturbed at what was going on?—She did.

Did she not ask you any questions as to what was passing?—She did.

Did you not tell her?—I am not certain.

By the virtue of your oath, sir, did you not tell her what occurred on Friday night?—I can't swear positively, but I might have told her something.

Did not Mrs. Probert express uneasiness on the Saturday?—She did.

W. Probert

Did she not inquire who Hunt was?—No; she had heard of him often, though she had not seen him.

At what time did you come down on Saturday morning?—Between eight and nine.

Will you swear, upon your oath, that you did not come down at six o'clock on that morning?—Certainly, I can swear that I did not.

Will you swear it was after eight o'clock when you came down?—I will not; but to the best of my recollection it was between eight and nine.

What did you do when you came down?—I went to the stable, or perhaps into the garden.

Did you go down the lane?—I did not.

What sort of hat did you wear on that occasion?—I think a black hat, such as I generally wear.

Did you not wear a white hat?—I cannot say. I think not.

Did you see your wife receive a gold chain from John Thurtell?—I did.

Did she wear it on the Saturday?—I did not see her wear it on the Saturday.

Did she, when she received it, put it on herself, or did Thurtell put it on?—I cannot state that, but I think she put it on herself. I saw Thurtell rise when he presented it to her.

Did Mrs. Probert express any uneasiness on the Sunday?—I think she did.

When Thurtell produced the sack and cord on Friday night where was the boy?—I think he was in the kitchen.

Where was the sack before Thurtell produced it?—I don't know; I never saw it before.

Will you swear you had not seen it before John Thurtell said, "I'll go and fetch the sack and cord?"—I will.

Did not the boy tell you where it was?—No.

Who was in the stable when the horse was taken out to fetch the body?—I don't recollect.

Where was the boy then?—I think in bed; he slept in the room over mine.

Were you ever in difficulties before this?—I have been.

Were you ever in such a scrape as this before?—Never.

Had you never a charge of felony preferred against you before this?—I had.

Where was that?—In the King's Bench prison.

What was the nature of that charge?—I was accused of taking some silver from the till of the man who kept the coffee-house, and who owed me £100 at the time.

What was the consequence of that charge?—I was sent for six months to the House of Correction. W. Probert

Was that the only charge of felony ever made against you?—Yes, the only one.

Were you never in Hereford?—Yes, I was born there.

Were you never charged with sheep stealing there?—Never.

Well, perhaps it was lamb stealing?—No, I was never charged with either.

Come, you know what I mean by charged; were you never accused of such a crime there?—Never.

Then the accusation is quite new to you?—It is.

Then what was the charge against you?—I had bought some skins, which were afterwards owned.

Oh, then, you were accused as a receiver of stolen goods?—I was not.

Were you not taken before a magistrate?—No.

Were the goods not taken away?—They were not.

I understand you have passed much of your time in prison?—I have been in the King's Bench prison, and in the Rules, between two and three years.

By Mr. Justice Park—Were you imprisoned in the King's Bench on civil suits?—Yes.

By Mr. Andrews—Well, you have been in the House of Correction and in the King's Bench prison; are these all?—Yes.

Do you know Mr. Framstone?—I do.

Now, sir, having given you that name, I ask you, on your oath, were you not committed by that gentleman for refusing to answer certain questions before the Commissioners of Bankruptcy?—Yes; I was committed to the King's Bench prison. I have been a bankrupt. No dividend has been paid out of my estate. I was frequently remanded by the Commissioners. I have lived only six months at the cottage. I lived with my brother-in-law in the Strand. We were not partners, but did business together. It was a large grey horse that was employed the night of the murder. It was in my stable at night. Mr. Hunt had a white hat and black handkerchief on the Friday night. I had heard of the transaction of the insurance office; and yet subsequently I introduced Thurtell to my wife. Thurtell was making love to Mrs. Probert's sister also, a love, however, that would come to nothing. I thought John Thurtell's saying it was mere idle bravado. I do not know Mr. Beaumont, to my knowledge. I never mentioned it to any person. No one was present save Hunt and Thurtell when the money taken from the body was distributed. I did not see any cards played at my

W. Probert house, either on the Friday, Saturday, or Sunday nights. I do not believe my wife played cards on Sunday. I never, to my knowledge, saw my wife play at cards. I never heard any person say it was a bad example to children. I have lived in London eleven years; I transacted business in Herefordshire also.

Cross-examined by Mr. THESIGER—I had known Hunt twelve months; I have been in his company several times. I was the person who introduced Hunt to Thurtell, about six or seven months ago at the Cock. I do not recollect inviting Hunt to Gill's Hill Cottage. I believe Thurtell asked me to drive Hunt down to Gill's Hill Cottage. I did not say there was no spare bed at my house. I expressed no surprise at Hunt's going down uninvited to Gill's Hill Cottage, he not having been personally introduced to Mrs. Probert. Hunt paid for the pork in Oxford Street; I have never paid him for it since; it was only eighteen pence. I had three or four pounds in my pocket when I borrowed the five pounds from Tetsall. I am not certain what I might have said when Hunt said at the gate, "Take no notice, and drive on." Hunt had never been at Gill's Hill Cottage before. Phillimore Lodge is on the high road, a mile and a half beyond Elstree, towards St. Albans. Hunt paid for the four or five glasses of brandy and water, and I paid for the one I had at Edgware. There were two or three handkerchiefs, and I burnt the mark out of one of them. Up to the day I went before the grand jury, I said to Mr. Franklin, the chaplain, that myself and Hunt were innocent of the murder. The exact words were, very likely, that neither of us knew anything about the murder till after it was done. I was convicted of a felony before I was sent to Brixton.

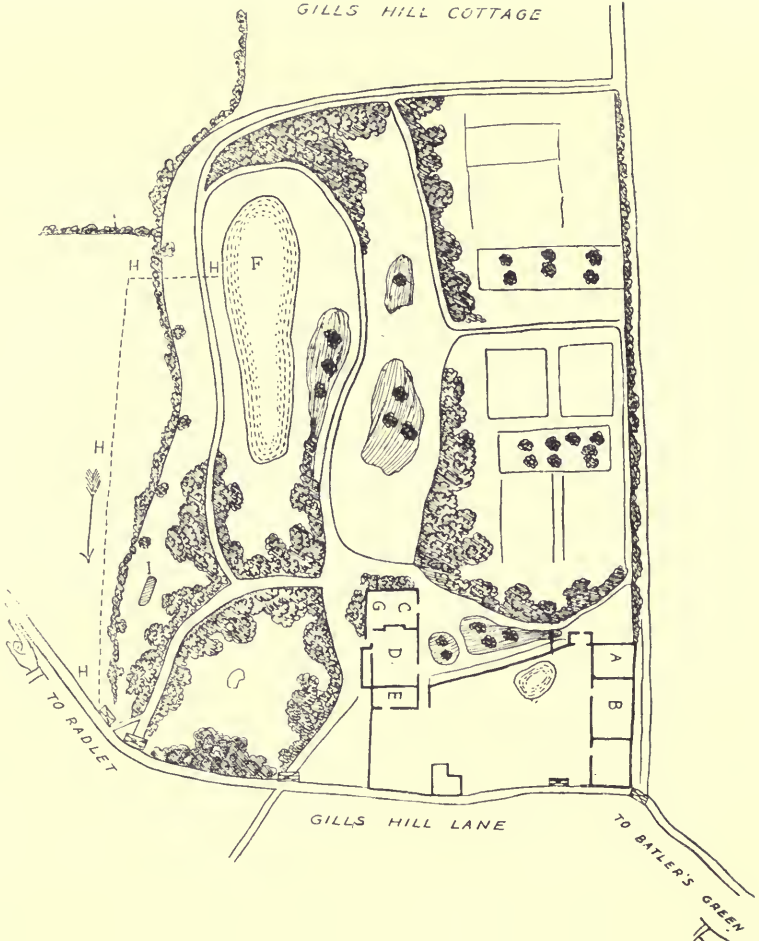
By Mr. GURNEY—On the Sunday evening that I went to Mr. Nicholls' I remained out two hours and a half. Hunt and I were prisoners when I had the conversation with Mr. Franklin.

By Mr. Justice PARK—When I spoke to my wife about netting, it was to satisfy her, as she was in a passion, and asked, "What have you been doing, you three? You have been counting money, burning papers, and dragging something heavy across the ground." I did not observe whether the windows of Mrs. Probert's room were open or not.

Mrs. E. Probert Mrs. PROBERT, examined by Mr. GURNEY—I remember the night of 24th October when John Thurtell, Hunt, and Probert came to Gill's Hill Cottage. I remember also, very well, hearing the sound of a gig passing the cottage that night. I think

REFERENCES.

- A Coach House.
- B Stable.
- C Parlour.
- D Kitchen.
- E Wash-house.
- F Pond.
- G Sofa on which Hunt slept on 24th and 26th October.
- H..H Track by which Thurtell and Hunt conveyed body from pond to gig on the night of 27th October.
- I Hole dug by Hunt and Thurtell on the night of 26th October.



Plan of Gill's Hill Cottage and Grounds.

Reproduced from "The Account of the Murder of Mr. William Weare," by G. H. Jones, Clerk to the Herts Magistrates, 1823

this was about eight o'clock or near it, as well as I can recollect. It was nearly an hour after that I heard a ringing at the bell, but I cannot exactly remember. No one entered my house immediately after this ringing, but at about half-past nine, or near ten, my husband came in. I had been upstairs some time; when I came down I found Mr. Probert, John Thurtell, and a stranger in the parlour. My husband introduced that stranger to me as Mr. Hunt. Mrs. E. Probert

I saw John Thurtell produce on that night a gold watch with a great deal of work about it, and also a chain. It was such a chain as the one now shown me. Mr. Thurtell offered to make it a present to me. At first I refused it, but at length he put it round my neck. I afterwards, having been taken into custody, gave it up with the little box [pointing to a box on the table] to the constable, in the presence of the magistrates.

John Thurtell and Hunt and my husband sat up that night. When Miss Noyes and I went upstairs we left in the room John Thurtell, Hunt, and Mr. Probert. I did not go to bed directly. I went from my room to the stairs to listen. I leaned over the balusters and listened to what was going on in the room. I overheard them talking, but the conversation was all in a whisper. What I heard first was, I thought, about trying on clothes. I heard one say, "I think that would fit you very well," but this was all in a whisper. I heard a noise like papers on the table, a rustling like; and then something like papers being thrown in the fire.

I afterwards returned to my chamber, when I saw something take place out of doors. I saw two gentlemen go from the parlour to the stable; they took a light with them, and led a horse out of the stable, and opened the yard gates to let the horse out. I heard afterwards something apparently very heavy dragged from the stable to the garden. The stable is near the back gate. I could hear the substance dragging, I think in the dark walk. I had a view of it as it was dragged out of the walk. The walk is just opposite the window; it seemed to me very large and very heavy. It was in a sack. The rustling I have mentioned was after this, after I had seen the sack. In the walk I saw them dragging the sack; there were two persons; I could see half-way down the walk; it is quite away from the pond. I then heard a hollow noise; I can't describe it; it was like a heap of stones thrown into a pit.

When I heard the whispering, the first thing, I think, was Hunt's voice, who said, "Let us take a £5 note each." I did not hear Thurtell say anything then, but afterwards heard

Mrs. E. Probert

a voice which said, "We must say there was a hare thrown up on the cushion of the gig, of which some one made us a present coming along; we must tell the boy so in the morning." I next heard a voice, I can't say whose, say in a whisper, "We had better be off to town by four or five o'clock in the morning." John Thurtell said, "He had better not go before eight or nine o'clock"; but the parlour door was now shut. I heard, I think, John Thurtell's voice say, "Holding shall be the next." Then Hunt, I think, asked, "Has he got any money?" John Thurtell said "It is not money I want; it is revenge. It is Holding that has ruined my friend." By this I understood he meant Mr. Probert. I do not know whether Holding had been concerned in my husband's bankruptcy. Thurtell said, "He has ruined my friend, and destroyed his peace of mind for ever." I went up to bed at nearly two o'clock, I think. After my husband came up some conversation passed between us.

[A short conversation then took place between the counsel for the prisoners and the learned judge and Mr. Gurney as to whether it was proper to ask Mrs. Probert concerning any conversation that passed between her and her husband.]

Mr. Justice Park (to Mr. Gurney)—All that you can ask is whether a conversation took place, in which witness communicated to her husband what she had seen and heard. You cannot ask what her husband said.

Examination continued—When your husband came to bed, did you mention to him what you had seen and heard, according to the evidence you have given?—Must I answer?

Mr. Justice Park—Pray, compose yourself, good woman; you need not be alarmed.

Mr. Gurney—I do not want you to tell us what was said.

Mrs. Probert—Must I answer questions concerning my husband?

Mr. Gurney—No evidence you now give can prejudice your husband. He has been this day put before a jury of his countrymen and acquitted of this murder.

The Witness—Oh, has he! has he! I'll answer anything! but has he been acquitted?

Mr. Justice Park—Pray, compose yourself; pray, good woman. Don't be alarmed; we are not wanting you to say anything against your husband. Nothing will be drawn from you against your husband. Pray, compose yourself; pray, do not be alarmed.

Examination continued—I did mention to my husband what I had seen and heard. The next morning Hunt and Thurtell came and dined with us, and on the Sunday Thomas Noyes

and Thomas Thurtell also came. On the Monday night John Thurtell and Hunt came again; it was past nine, I think, when they came. They stayed to supper, and went away soon after. Mrs. E. Probert

Cross-examined by Mr. PLATT—You affected surprise to hear that your husband was acquitted. Now, did you not know that he was to be acquitted previously to his giving evidence?—No.

Did you not hear that he was to be acquitted of the charge provided he gave his testimony here truly?—I don't recollect that I was told so.

Can you say on your oath that you were not told so?—I don't know that I was.

In passing up the lane from Radlett to my cottage there are two garden gates leading from the lane. When you pass from the lane, one gate leads to the stable and the other leads into the garden. There is a very high fence, in which the latter gate stands, and of which it forms part. My bedroom window was on that side of the house that looked towards this fence. I do not mean to say that it is possible to discern anything in the stable looking from my window. It is not possible to see the doorway. I could not discern it. I could not exactly see the door, but I could see the horse as soon as it came out. I think in the daytime the door might be seen. The night of the 24th was a very fine moonlight night. There was but one sitting-room in our house. The persons I saw in the garden were, I rather think, Thurtell and Hunt. The short man was Hunt. He was dragging the weight across the garden. I could not say as to the other.

I was on the landing-place when I heard the conversation. It was for the most part in a whisper. There was a great deal of whispering which I did not distinctly hear. I could not hear it all. I thought I knew the voices, but could not be positive. I thought I heard my husband whisper, but he whispered so low that I could not hear what he said. I cannot say positively. My husband gave me no money before he left me. He did not give me £23. He did not tell me what to say here. I do not know that John Thurtell knew Holding. My husband knew him. I never saw Holding and John Thurtell together. I do not know that Holding held my husband's property when he was in difficulties.

It was after twelve when Miss Noyes and I went upstairs. I cannot say what time it was when I saw the horse coming from the stable. It was a few minutes after I went upstairs. I heard the parlour door open. It was a glass door. Soon after I saw them go to the stable, and the horse was brought out. They had a light. The short man had the light. I

Mrs. E. Probert heard no noise in the stable after. I rather think the light remained after the horse was brought out. I did not hear any one go out before this. I think I heard some one go to the kitchen before any one went out with the light. I kept a store for potatoes on the premises. There was a hole made for them, and they were covered over.

I went out on the Saturday. I did not observe the pond particularly. I did not go near it. I cannot say whether it was so shallow that I could see the bottom. I seldom went to look at the fishes there. I did not go out to see it on Sunday or Monday. One of the walks in the garden is a dark walk. It is immediately on the right as you enter the garden. There are many shrubs there on both sides, but they are very short. It was in the dark walk I first heard the noise, and afterwards I saw something heavy moving along, or dragged along, in that direction. This was opposite the window. That path led to the pond. I did not see my husband in the garden when I looked out of the window.

Cross-examined by Mr. Thesiger—I did not expect my husband on that night. It was uncertain what time he should arrive. My husband went from home on the Monday before that, I had not seen Hunt before that day. I was then introduced to him for the first time. My husband did not say he (Hunt) was the good singer of whom I had often heard. There was singing on the Friday night. Hunt sang two songs on that night. It was not by my husband's desire that Hunt sung. John Thurtell asked him once, and I asked him the second time. I pressed him to sing the second time. There was no card playing that night. It was after supper Thurtell gave me the chain. It was before the singing. I did not attempt to return the chain on the Sunday. There were cards played on the Sunday. I did not introduce them. The cards were played in my husband's absence. He did not come back before the playing was over. I did not play. I think my husband was not present when the cards were played. I rather think not. It is possible he might have come in before they were over. I am certain my husband did not play. I cannot remember who played. I did not hear John Thurtell remonstrate against the cards as a bad example to the children. Mr. Noyes came on Sunday. I did not tell him about what I saw or about the gold chain.

T. Thurtell Thomas Thurtell, examined by Mr. Gurney—I was at Tetsall's, in Conduit Street, on Friday, 24th October. Hunt and my brother John dined there. I remember that some time after dinner Hunt was away for a time. I rather think he

brought a sack with him, and I think a gig to the door. He did not say anything to my knowledge. [The witness was desired to recollect himself, but he persisted in the same answer.] The horse in the gig was a grey horse. My brother went away in the gig. T. Thurtell

Upon your oath did you not hear Hunt make some observations to Probert before dinner?—There were some made, but I can't now recollect what they were. I saw some pistols, two large pistols, in the room. I think I heard Hunt say to Probert, "Bill, will you be in it?" or something to that effect. On the next day I saw Hunt. He asked me if I wanted money? I think he named £20, or something thereabouts. He did not say how he came by such money. I saw some considerable sum with him, and I was surprised to see it with him. He said they had been drawing game, or netting game.

Did he say what he meant? Did he explain?—(The witness hesitated to answer.)

Mr. Justice Park—I now feel it my duty, sir, to caution you as to your answers. I have before me the statements you made in your examination before the magistrates, and I caution you to answer strictly to the questions proposed. The Court considers your situation, but justice must be done. After this, I trust I shall not have occasion to say more or to exercise the power with which I am invested.

Examination continued—The word "Turpin" was used by Hunt. I think he said, "We Turpin lads, or boys, can do it," or something to that effect. Hunt afterwards said he had been killing game and Probert holding the bag. The word "murder" was used in joke. Hunt said he committed murder, or something to that effect. The words were, "We have been committing murder, to be sure," but this was in joke. This was in answer to a question from me as to what they had been doing. I went down to Probert's on Sunday. I walked to Maida Hill. Hunt and my brother took me up there in a gig. There was a spade in the gig. It was a new spade. It was thrown over the garden wall by Hunt. I said he had better take it further, and he said, "No, I know what I am about." He said he did not wish Probert's wife to know it, or something of that kind.

Cross-examined by Mr. Thesiger—The conversation about Turpin, &c., was after dinner. We had not drunk much. Hunt said that Probert said he did not wish his wife to know that he had been expensive. I was at Probert's on the Sunday night. Cards were introduced. I can't be certain, but I think all the parties were present when they were introduced.

Thomas Noyes

THOMAS NOYES, examined by Mr. BOLLAND—I am a wine merchant. I know Mr. Tetsall, Thomas Thurtell, and the prisoners. On Friday, 24th October, I dined with them at Tetsall's. Probert borrowing some money of Mr. Tetsall, for the purpose of paying it over to John Thurtell. John Thurtell went away in a gig. It was an iron-grey horse. He was alone. Hunt and Mr. Probert also went away in Probert's gig. I saw some of them again on the Saturday morning at Tetsall's; I saw John Thurtell, Hunt, and Thomas Thurtell. I went down to my brother-in-law's cottage on Sunday. I walked, and the two Thurtells and Hunt overtook me in a gig. John Thurtell alighted and walked with me. Thomas Thurtell went on with Hunt. I was afterwards met by Thomas Thurtell in a gig at Brockley Hill. He came to meet us in a gig. On the Sunday evening in question, at Gill's Hill, cards were introduced. John Thurtell, Thomas Thurtell, Hunt, and myself played at whist. Probert went out. We did not play the game out. Probert was absent a quarter of an hour. On that night Thurtell and Hunt sat up. I left the cottage on Monday, after two. My sister and John Thurtell were of the party. The others went away in the morning.

Cross-examined by Mr. CHITTY—When they played cards on the Sunday, John Thurtell threw the cards up and said he could not play such cards, they ran cross. There was nothing said about the children.

Anne Noyes

ANNE NOYES, examined by Mr. BRODERICK—I was at Probert's cottage on Friday, 24th October. About eight o'clock I heard a gig passing. I heard a ring at the bell about half-past nine. During the evening John Thurtell, Hunt, and Probert came into the room. Thurtell had a black coat on. I knew that Probert had a white hat, which was kept in the hall. None of the three had a white hat that evening. They had a little brandy, and I rather think that John Thurtell proposed to go to Mr. Nicholls' to ask for a day's shooting. They all went, and returned about eleven. When they came back, they mentioned that Mr. Nicholls was not at home. They had supper; I did not sup with them. I saw a gold watch that Thurtell had. He took it out of his pocket. It had a chain. It was a hunting watch. Thurtell took the chain off, and gave it to Mrs. Probert. He proposed that Probert should give it to her first, but on Probert declining, he put it round her neck himself. The chain produced I believe to be the same. There was some singing that night; Hunt sang. Soon after I went to bed.

I did not come down the next morning till after breakfast.

Anne Noyes

I saw Hunt and Thurtell go out at half-past nine. On the Sunday morning John Thurtell, Thomas Thurtell, and Hunt came down. I believe Hunt's dress was changed after he came to our house. When the dress was changed he had on a black coat and waistcoat, and I rather think, a white handkerchief. John Thurtell said, "How smart Hunt is dressed to-day." Hunt had rather dark whiskers. During the day the word "Turpin" was used. John Thurtell said that Probert would not do for a Turpin. There were cards played that evening. I saw Mr. Heward on Sunday. Probert went out on the Sunday evening. I went up with Thurtell the next day. I saw a knife in John Thurtell's possession, very like the knife produced.

Cross-examined by Mr. ANDREWS—I slept in a room very near where Probert slept. I did not hear him get up that morning. I have seen Mr. Probert in a white hat and a black hat. The hall was the passage leading into the parlour from the kitchen. I did not see Probert go out on the Saturday. John Thurtell had been often at the cottage before; he slept there several times, and did not always sleep on the sofa. I can swear he once slept nearly a week at the cottage. He slept alone.

Cross-examined by Mr. THESIGER—I was present when Hunt was introduced to Mrs. Probert. Probert did not say he was the singer he had often talked about, but he did say that Hunt was a good singer. This was before he sung after supper. Mrs. Probert said he was not so good a one as, from the reports she had heard, she expected to find him.

Charles Tetsall

CHARLES TETSALL, examined by Mr. BOLLAND—I keep the Coach and Horses, in Conduit Street. Since 21st October, Probert, Hunt, and the Thurtells have frequented my house. I recollect that on 24th October the two Thurtells, Hunt, and Probert dined at my house. Probert then asked me to lend him £5, which I did. I don't know what he did with it. I did not see them go away, and I don't know when they did go.

Cross-examined by Mr. THESIGER—The two Thurtells were introduced to me by Probert, who told me that they were anxious to keep out of the way for a short time.

Re-examined by Mr. BOLLAND—Hunt's whiskers about the 21st were very large. I observed that on the Monday after the 24th they were shaved off. On the Sunday after the Friday of the murder I observed Hunt and Thurtell at my house. John Thurtell was dressed in leather breeches, long gaiters, and drab waistcoat. He went, with his shirt neck open, across the street

Charles Tetsall to get shaved. I never saw him in those clothes before. At that time Hunt was with him; he was dressed in black, and very indifferently. They went away about half-past ten. I put into the gig in which they went a piece of beef. I saw a shovel in the gig.

By Mr. Thesiger—If Probert swore that he did not introduce the Thurtells to me, he swore falsely, for he repeatedly applied to me to become a bondsman for them.

Mr. Justice Park observed that Probert had not sworn, as the learned counsel seemed, from his cross-examination, to suppose.

W. Rexworthy William Rexworthy, examined by Mr. Bolland—I knew Weare for about sixteen years. I always considered him a man of property. I have seen him repeatedly put his hand to his flannel shirt and take out large sums of money. I believe that he usually kept his money next to his skin. I have seen Thurtell, Hunt, and Weare together. I saw them together about ten days before the murder. The last time I saw them together was on the Thursday before the Friday of the murder, about nine o'clock in the evening, in my own house. I did not hear anything pass between them, as I left the room on their entering into conversation. On the morning of the Friday Mr. Weare called on me between one and two o'clock; I saw him. After some conversation he left me. I did not see him any more that day.

Cross-examined by Mr. Andrews—I keep two billiard rooms, which are much frequented between eleven and six o'clock in the day. I saw the body of Mr. Weare when it was taken from the pond, when it was in the sack and when it was in the coffin. I saw it before it was reburied.

By Mr. Bolland—I know this knife that is now shown to me. I saw it in Weare's hands on the day he was supposed to be murdered.

By Mr. Andrews—I had this knife in my possession for a month in consequence of Weare's leaving it in my room. I know it from a mark on the handle. I swear to it from that mark and by the wear. It is a remarkable knife.

Re-examined by Mr. Bolland—I have seen Mr. Weare play at billiards about twenty times during the time that I have known him.

By Mr. Justice Park—I saw the legs when the body was taken out of the water; they were naked. I saw the body laid out naked at the Artichoke.

Evidence for Prosecution.

Mary Maloney

Mary Maloney, examined by Mr. Broderick—I was laundress to the late Mr. Weare; he lived at No. 2 Lyon's Inn. I was in his rooms on Friday, 24th October. I saw his clothes and linen on the drawers; Mr. Weare put them in his carpet-bag. [A bag was shown to witness.] That was Mr. Weare's carpet-bag. There were five linen shirts, six pairs of socks, a shooting-jacket and leggings, a pair of breeches, a pair of laced-up boots, a pair of Wellington boots, and a backgammon board and things in it, put into the bag. [A backgammon board was shown to witness.] That is the board, and these are the things that were in it. I saw Mr. Weare put it in himself. He dined at his chambers; he had two chops between two and three o'clock. I did not expect him home that night; he said he was going out of town. He was expected back on the Tuesday following. About three o'clock I got a hackney coach for him from the Strand, at the Spotted Dog, in the Strand; it came up Holywell Street, with the horses' heads towards Charing Cross, by his orders. He went away about three o'clock, or a quarter after. A carpet-bag, a double-barrelled gun in a case, and a box coat were put into the coach. Mr. Weare had a buff waistcoat and a new olive-coloured coat on. He pulled his watch out before he went; I knew it, I had seen it before; it was a gold watch with a gold chain. [A chain was shown to witness.] It was exactly like this. [A knife was shown to witness.] This is Mr. Weare's knife. The watch had a double case, and was worked. He also wore a steel chain round the neck to secure it. The coach drove off towards Charing Cross. [The shooting-jacket, waistcoat, shirts, &c., were identified by witness.]

Thomas Cave

Thomas Cave, examined by Mr. Bolland—I drove a hackney chariot for Mr. Beckett, in October last, for three weeks. I recollect taking up a gentleman at Lyon's Inn in that month. I did not take up more than one gentleman there in that month. I was called from the Spotted Dog by a young woman, and I drove by her desire to Lyon's Inn. A shortish gentleman got in there, and a carpet-bag and a gun were put into the carriage. The gentleman put in the gun, and the girl the bag. I remember the week when the murder was committed. I cannot say whether it was in that week, but it was about that time. I drove to Charing Cross, and then to Maddox Street, where the gentleman got out and went to a house. He got in again, and he then ordered me to drive up Welbeck Street to the New Road, and along it to Cumberland Street. He then got out

Thomas Cave

again. He came back to me with a tall gentleman in a rough coat. He paid me the fare, and took out his things. The two gentlemen went down Cumberland Street. It was then about half-past four. Some of the lamps were lighted, some not, for it was still daylight.

Thomas Wilson

THOMAS WILSON, examined by Mr. BRODERICK—I am a horse patrol.* I was on the Edgware road on 24th October. I do not know John Thurtell. I met two persons in a gig drawn by a roan grey, between the fifth and sixth milestone from Tyburn. They were driving at a very furious rate. I should know the horse again, though not the men. I pointed out the horse in Mr. Probert's stable; it had a very white face.

Cross-examined by Mr. ANDREWS—The gig passed me quickly It was about half-past six or seven, but I had an opportunity of seeing it well. I described the horse as a roan grey to Mr. Clutterbuck, Mr. Stafford, the clerk at Bow Street, and the gentleman in the Secretary of State's office. I observed the gig; it was of a dark colour, but I cannot say what colour. I knew that the horse which I saw was one which I was going to identify. I always said it was a roan horse, and not an iron grey.

J. Shepherd

JAMES SHEPHERD, examined by Mr. BRODERICK—I am an ostler at Mr. Cross's stables, Whitcomb Street. The prisoner Hunt came to hire a gig on a Friday—the Friday before I heard of Mr. Weare's murder. It was a dark green gig; Hunt said it was going to Dartford; it was a roan horse, with a whiter face than the body. I saw the horse to-day; it is the same as I saw on the Friday and Saturday in October; it is Mr. Probatt's, the livery stable keeper. Hunt asked for a sack, and where he could get one. I told him, as he was going to Dartford, he would get one by Westminster Bridge. The gig he only hired from him, and the horse from Probatt. He came back on the Saturday, but he hired no gig on the Sunday.

Stephen March

STEPHEN MARCH, examined by Mr. BOLLAND—I am ostler to Mr. Probatt, the livery stable keeper at Charing Cross. I know Hunt the prisoner; I see him now. He hired the horse on a Friday, three days before I heard of Mr. Weare's murder—the horse was a dark roan; it was to go to Dartford. I took the horse to Cross's livery stables; it was to be put to a gig. I

* Created by Sir John Fielding in the eighteenth century, and consisting in 1823 of 60 men.—E. R. W.

hired him another on a Sunday, a bay horse, and yellow gig. Hunt did not say where it was going. He brought it back on Monday, about twelve o'clock. He said he should want one about half-past three in the afternoon; he asked for the same horse—the roan that he had on the Friday. He went away in the yellow gig about half-past three. He returned about half-past two o'clock in the morning. I looked at the gig, and found it and the horse very dirty; there was a little blood at the bottom of the gig. The horse was a good deal distressed, and the thong of the whip was three parts unravelled. **Stephen March**

Cross-examined by Mr. ANDREWS—These gigs were all brought back by Hunt.

BENJAMIN COXWELL, examined—I am shopman to Mr. Bow, pawnbroker, High Street, Marylebone. I sold a pair of pistols, similar to those presented to me, on 24th October last; I sold also a key and a mould. I sold them to two strangers. One was tall and the other short. I asked £1 17s. for them, and received £1 15s. I should not know the persons again. **B. Coxwell**

JOHN BUTLER, examined—I am ostler at the Bald-faced Stag, half a mile from Edgware, on the London Road. On Friday night, 24th October, between six and seven, Mr. Probert came to the house in a horse and chaise. He stopped a very few minutes, and went on towards Edgware. **John Butler**

WILLIAM CLARKE, examined by Mr. BOLLAND—I was landlord of the White Lion, at Edgware, and I know John Thurtell, whom I saw about twenty or thirty yards beyond the nine milestone on the Edgware road. He was then driving very hard at the wrong side of the road, and he called out [here the witness used the ejaculation of whipmen who want to avoid contact on the road.] I heard his voice in this manner. His horse was light faced. A short man was in the gig with him. **W. Clarke**

On my return to my own house I met Probert and Hunt, with a gig and a brown horse, at my own door. They had some brandy and water, and we began to talk of Thurtell's private business. Hunt alighted at that time, and took some brandy at my bar; he also took out a newspaper, and, talking of Thurtell said, "Look at that." They then went away. On the Sunday after I met Mr. John Thurtell walking with Mr. Noyes. He looked ill; I remarked it, and he hinted that it was owing to the want of bail in the bankruptcy business. Hunt had large whiskers on when I met him on the 24th October, but he had shaved them off before he was taken.

W. Clarke Cross-examined by Mr. ANDREWS—It was nearly dark at the time. I only saw one coach with the lamps lighted. I observed the chaise in which Thurtell was, merely because of its being on the wrong side of the road. It was between the quarter and twenty minutes past seven o'clock when I met Probert's gig, and they stopped for a quarter of an hour.

David White DAVID WHITE, examined by Mr. BRODERICK—I am the son of a corn chandler at Edgware. I remember Probert coming to my father's house with another gentleman on the evening of 24th October, and purchasing a sack of oats and some beans; it was about twenty minutes after seven.

Cross-examined by Mr. THESIGER—He did not seem to be in a hurry to get away.

S. Probatt STEPHEN PROBATT, examined by Mr. BRODERICK—I keep the White Lion Inn at Charing Cross. The prisoner Hunt borrowed a horse from my son on 24th October, and had a bay horse on the Sunday; but the horse which he borrowed on the Friday was a roan horse, and he had it again on Monday. On the Monday I changed a £5 note for Hunt, for the hire of the horse and gig, for which he paid £1 5s. A Mr. Reece was in my coffee-room; he remarked that he was a snug sort of a man, and ought to get a knock in the head. Hunt afterwards pulled out a pistol, and said, "This is a good fellow to do business." [Here a pistol was produced.] I cannot say that that was the pistol. The roan horse is now in Hertford, and has conspicuously a white face.

Cross-examined by Mr. THESIGER—The conversation took place on the Saturday. The horse had a white face. It might be in a joking sort of way that Hunt spoke of Mr. Reece.

Robert Field ROBERT FIELD, recalled, and examined by Mr. BOLLAND—I knew Probert before October last. He came to my house, in a one-horse chaise, with another person; the stranger was nearly the size of the prisoner Hunt. They had five glasses of brandy in the gig. Probert said Hunt could sing; he did not sing, though asked even for a verse. They stopped a half-hour or thirty-five minutes. Probert's horse was a good one. My house is about 200 yards from Elstree; I saw the singing man on Monday, he was with another man; that man was the prisoner John Thurtell. They came to my house at half-past five on the Monday; they remained a quarter of an hour smoking a pipe; the horse was put to the gig near half an hour. I saw

Hunt on the Tuesday at half-past three; he came from the direction of London. I gave the constable a sack and shirt on the 5th November, which were in my possession from the time of the inquest. **Robert Field**

Cross-examined by Mr. PLATT—I knew the hour they were at my house from people who were also there, breaking up early. By my watch it was eleven minutes before nine. After five o'clock two coaches go down of an evening to that part of the country, one from Smithfield, and the other from Holborn. They do not stop at my house; they do not go through Elstree.

RICHARD BINGHAM, examined by Mr. BRODERICK—I am an ostler at the White Lion, Edgeware. On the evening of 24th October last, about seven o'clock, a gig stopped at the White Lion, at Edgware, with two gentlemen in it; one was short and the other was tall. The short man had large, dark whiskers with a sallow complexion; he was rather high in the cheek bones, and about thirty-four or thirty-five years old. They had a glass of rum and water. The tall gentleman had a light-coloured greatcoat; the short, a dark one. They had a bald-face horse. My master is Mr. Clarke, who had just then come home. Another gig came up, but I do not know who were in it. **R. Bingham**

Cross-examined by Mr. ANDREWS—The first gig had time to get on a mile or two before the other came up. It was a dark night, but not wet; the lamps of some of the carriages were lighted. Whilst the first gig was there I was baiting the horse; neither of the men got out of the gig.

By Mr. JUSTICE PARK—I think one of the men in the second gig got out, but I am not certain.

MARY MALONEY, recalled, examined by Mr. BRODERICK—The description that has been given of the short person corresponds exactly with that of Mr. Weare. **Mary Maloney**

JAMES FREEMAN, examined by Mr. BRODERICK—I am a labourer, living at a place called "The Folly," near Gill's Hill Cottage. I had occasion to go out on the 28th October, into the Gill's Hill Lane, about eight o'clock to meet my wife and take her home. I had a gate to go through from my house; the gate was about thirty poles from Probert's cottage. When I got into the lane I saw two gentlemen in a gig going from Probert's cottage towards Batler's Green. I heard the gig before I saw it, coming in a direction from Radlett, which **J. Freeman**

J. Freeman

would be past Probert's cottage. It stopped at an elbow of the lane, and one of the gentlemen got out. I spoke to one of them. The horse had a very white face. I have seen the horse in this town; it was shown to me by Probert. I am sure that is the very same horse I saw in the lane that night. When I left my cottage the moon was not up, but it was a starlight night. The moon rose afterwards, between eight and nine. I did not see enough of either of the men to be able to identify them. The one who jumped out had a light, long greatcoat on. I afterwards met my wife, and we went home together.

Cross-examined by Mr. Platt—I should not know the gig again. I could not tell the colour of it. It was not a yellow gig. I never said it was a yellow gig.

Philip Smith

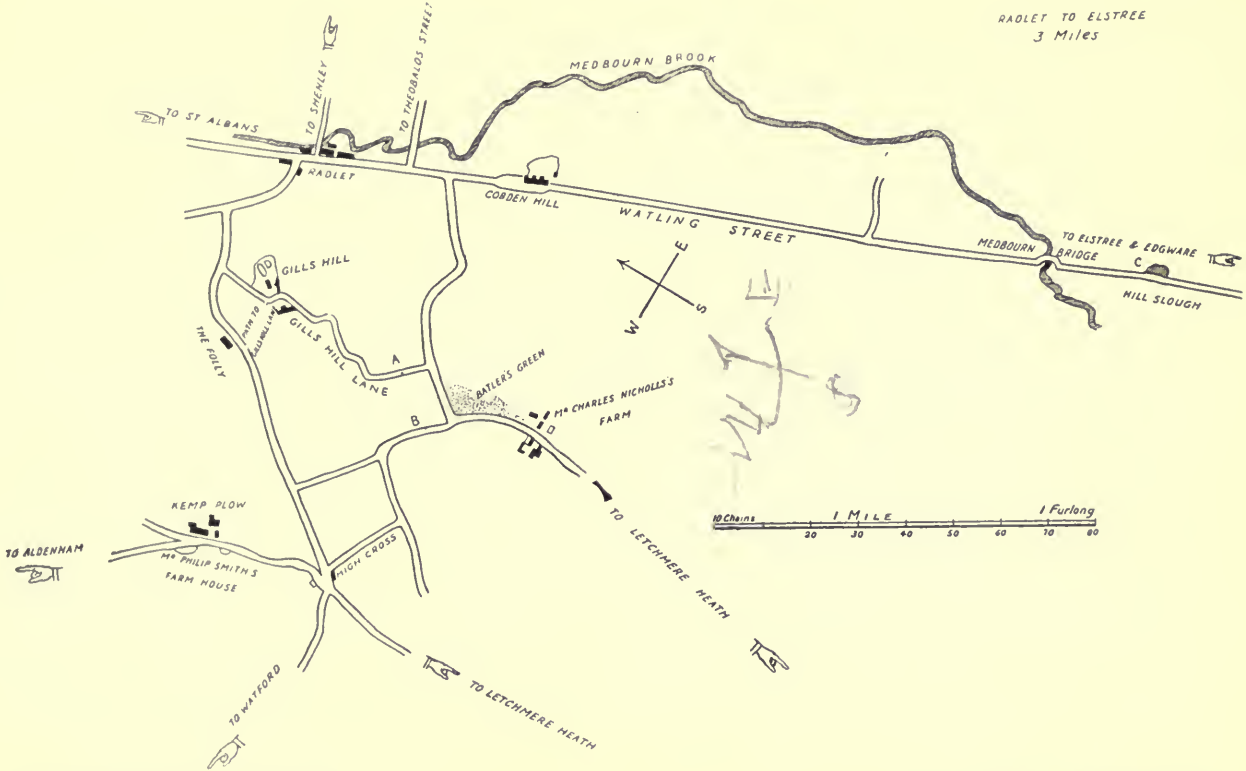
Philip Smith, examined by Mr. Broderick—I am a farmer, living at Aldenham. On 24th October I was on a visit at Mr. Charles Nicholls, at Batler's Green. I left Mr. Nicholls about ten minutes before eight o'clock. I had my wife and child with me; my wife and child were in a donkey chaise, and I was walking. I was going to a place called High Cross. I passed the corner of a lane leading to Gill's Hill. I know the spot where a person was supposed to be killed. In crossing the road that night the nearest part I went to the spot was about 250 yards. In going along I heard the wheels of some sort of carriage, and then the report of a pistol or a gun. This attracted my attention, and I remarked upon it to my wife. In about a minute or two afterwards I heard groaning. I then stopped the donkey chaise. The groaning lasted about a minute or two. I did not go up to the spot from whence the sound proceeded, as my wife was alarmed.

Cross-examined by Mr. Andrews—I was about 250 yards from the spot where the supposed murder took place, at the time I heard the report. I was behind the chaise.

Mr. Andrews—This map shows you were 295 yards from the spot.

Richard Addis

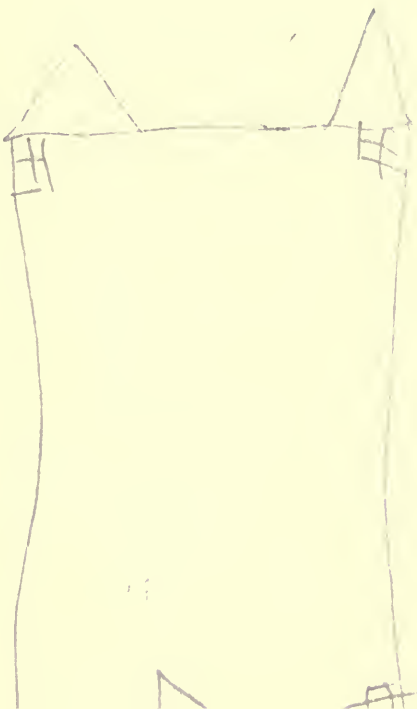
Richard Addis, examined by Mr. Bolland—I lived as servant with Probert, of Gill's Hill Lane, on 24th October last. He had a horse and gig. He had the horse two months before 24th October. It was a bay horse of great power. On 24th October I heard the wheels of a gig pass the cottage at about a quarter before eight in the evening. I thought it was my master's gig. I went out, but I found it had passed on in a direction, very fast, towards Batler's Green. About nine



A Spot where murder was committed.
B Spot where Philip Smith heard report.
C Hill Slough Pond.
D Probert's Pond.

Plan of the roads about Radlet.

Reproduced from G. H. Jones's account of the murder of Mr. William Weare.



o'clock there was a ring at the gate bell, which I answered. I found John Thurtell at the gate; he desired me to take charge of a horse and gig. I observed the horse, which I have since seen. The colour was a kind of iron-grey or strawberry. From the position in which the horse stood I judged that the gig came from Batler's Green. After giving me the gig, Thurtell said he would walk and strive to meet Probert. I saw him on his return, after having walked in search of my master. I was just going to throw a cloth over the horse, and he told me not to mind it for a while. I saw a gun poked out on each side of the gig under the leather. **Richard Addis**

I did not observe anything else in the gig that night, but next morning I saw a carpet-bag in the gig, and a backgammon box in the parlour. [Here the articles were identified by the witness.] Mr. Thurtell desired me to take the backgammon box out of the parlour, and place it in the gig. Thurtell was dressed in a light grey coat. In about three-quarters of an hour my master returned. His gig came in the direction from Radlett. Mr. Probert and Mr. Hunt were in the gig. Mr. Thurtell was hanging behind. Mrs. Thurtell had gone out again to look for my master. I observed some spots of blood on John Thurtell's greatcoat. I am confident he had a sponge on the Friday night, and that he was sponging his coat. I think it was after supper. Thurtell went out and got the sponge, and then asked whether there was any water. He dabbled about with the sponge in the water. My master came to me at the stable, and asked for the lantern. Hunt, Thurtell, and my master then went out. They took the direction of Batler's Green. My master said he was going to Mr. Nicholls'. They returned in about three-quarters of an hour. I heard Mr. Probert as they passed tell Susan to dress the pork chops. I then went into the stable to do up the horses. John Thurtell and Hunt came to me there. I believe John Thurtell was employed sponging his coat. They remained a short time, and seemed to go into the house. I then rubbed down the horses, and went into the kitchen. Probert came there to look for a bottle of rum, which was kept in a large safe. I went into the parlour by order of my master, to ask what o'clock it was, and Thurtell produced a watch without a chain. Mrs. Probert said it was awkward to have a watch without a chain. He said it was. I got to bed at twelve o'clock.

I rose on Saturday morning about six o'clock to look after the horse and fetch up the cow. I saw Thurtell and Hunt at the gate going into the garden. When I had fetched up the

Richard Addis

cow I saw Hunt and Probert in the kitchen. Hunt was sponging John Thurtell's coat on the table. The coat appeared to be spotted all over. I cleaned their boots, which were covered with fresh dirt. They went away about ten next morning; the gun, the bag, and the backgammon box were put into the gig. They asked for a sponge and went away, and turned as if they were going towards Batler's Green. My master was walking about the garden in low spirits.

On Sunday morning I saw Hunt coming into my master's garden. He was in dark-coloured clothes; went upstairs and dressed himself. He seemed very decent. I saw Mr. Noyes on Sunday. I was sent on Sunday afternoon to Nicholls with a message. I saw some blood in Gill's Hill Lane—a good deal. I went in consequence of what I had heard. On Monday morning, by Probert's directions, I went to London along with Mr. Thomas Thurtell. It was in the gig, and Hunt was with us. Having put John Thurtell down, we went to Tetsall's, where we stayed some time. I had no business in London.

Cross-examined by Mr. Andrews—I had been often put up and down Gill's Hill Lane. It is so narrow that it is almost impossible for a carriage or even a gig to turn. There is a heap of mud in the corner, and that is the only place you can turn round in. In going to Batler's Green, I don't know that we must have passed Mr. Nicholls' house. When I came to Probert's gate the horse's head was as if it came from Batler's Green. We must have passed very near, within 200 or 300 yards of Nicholls' house, before we could turn. Between Nicholls' house and where the road turns off there is a good bit of road—a smartish bit. To turn round we must have gone thereabouts. I have been asked by different persons five or six times about the sponging. I always said I could not be sure of it. I cannot exactly say, but I think it was about seven o'clock on Saturday morning that I saw Probert first. I don't know of my master's going out early on that morning at all. I had known Thurtell to sleep one or two nights on the sofa in the parlour before the Friday.

Cross-examined by Mr. Thesiger—It was Probert who told me to go to town with Mr. Thurtell. He said he had no occasion any more for me, and that Thurtell would provide me with a situation.

By Mr. Justice Park—I knew all about the rooms of the house, and I can say where persons slept in it. It was about a fortnight before that John Thurtell had been there, and then he had a bed there.

Evidence for Prosecution.

SUSANNAH WOODRUFF having been sworn, and it now being about nine o'clock, S. Woodruff

Mr. JUSTICE PARK addressed the jury. In the suggestion I am about to make, I consider not my own convenience, but that of the gentlemen of the jury. By the law of England I am not allowed to discharge the jury in criminal cases, and I am not enabled to allow you to return to your families until the case is finished. I am obliged to keep you together, though, no doubt, proper accommodation will be afforded you. But I am for myself perfectly willing to go on to finish the case before we separate. If, however, it is more convenient and agreeable to you to retire to what I hope will be your night's rest, I have no doubt you will be furnished with proper accommodation. I have no personal wish on the subject. I have been accustomed to bear fatigue of this kind, and am willing to bear it. The foreman will consult with his brethren and collect their wishes before we proceed to the examination of another witness.

After a short consultation, the Foreman said—The jury thought that, if they could be allowed to retire for an hour to take refreshment, they could proceed with the trial.

Mr. JUSTICE PARK—I have made up my mind never to agree to the practice of retiring. Within my experience, when I was a young man, I have seen so many examples of fatal results from this practice to the prisoners and to the ends of justice that I must resist the proposition.

A juryman suggested that if they had some refreshment in the box they might proceed.

Mr. JUSTICE PARK—To that I have not the least objection. The Sheriff will no doubt attend to your wants, and in the meantime we will proceed with the witness.

SUSANNAH WOODRUFF (previously sworn), examined by Mr. BRODERICK—In October last I lived as servant to Mr. Probert at Gill's Hill Cottage. On the evening of 24th October I recollect a gig going by about half-past eight. I did on that evening see my master come in, accompanied by Hunt and Thurtell. I cannot say whether Thurtell had a black or a dark blue coat. Thurtell afterwards came into the kitchen. He laid down a watch on the table and took off a chain. What sort of a chain it was I did not know, though he held it up in his hand. Soon after that I went to stir the parlour fire; I saw something in it rolled up like a bit of wire. I could not tell whether it was a chain or not. I received orders to dress a supper.

Was the supper postponed?—I don't know. It was pork. I

S. Woodruff

received orders not to dress the supper so soon. They then went out, and, after being an hour or more, they came home and ate their supper. Thurtell and Hunt did not go to bed; they stayed up. I went to bed. At six o'clock on Saturday morning I got up, and met Hunt and Thurtell coming up the steps out of the garden. They went into the parlour. I observed their shoes and boots to be very dirty. I went afterwards to fetch some water. I went into the parlour. I saw Thurtell lying on the sofa; he had a white hat on; it was my master's. In the parlour I observed a bag. [One shown to witness.] It was not like that; and some bundles besides. They went off about ten; they had then both black hats on. I remember them coming down on Sunday. They went away next morning, and on Monday night I saw them again. On the Tuesday morning I went into the chaise-house and saw a sack hanging on a nail; it was cut open, and very wet.

J. Harrington

John Harrington, examined by Mr. Bolland—I am a labourer, living at Aldenham. I was at work with a man named Richard Hunt, in Gill's Hill Lane, on Saturday morning after the murder. I went to work about six, and about ten minutes after six two gentlemen passed me; I should know one of them again.

Is either of those persons in the dock the gentleman to whom you allude?—Yes, that [indicating Thurtell] is one of them. He was the tall one. The other was a short gentleman, pale, rather stout, and with black whiskers; the tall man had a white hat on. They passed me about 10 poles on the left hand, and then grabbled in the hedge. They seemed to me as if they had lost something and wished to find it. About two minutes they stayed there, and then went 3 or 4 poles up on the right, and returned again towards Gill's Hill Lane. They spoke to my partner, Richard Hunt. It was the tall man, with a white hat, who said that last night he had been capsized out of his gig, and had lost his penknife and a handkerchief. I don't know what Hunt, my partner, answered, nor did I hear what he said to my partner again. They then went away; and afterwards Richard Hunt and I, at about eight o'clock, when I had taken my breakfast, walked up to the place where I had seen them grabbling, and there found a small penknife. That is the knife [identifying it]. When I found it, it was all over dirt. About ten o'clock I found a pistol. The knife was in the cart ruts; the pistol lay among the brambles of the bushes. [The pistol was produced.] That is the pistol. I did not see whether it

was covered with blood, but that is certainly the pistol. After- J. Harrington
wards I gave it to Mr. Nicholls. The knife I speak of had two blades. One of them was broken, and was so when I picked it up. I wiped the blood off before I gave it to Nicholls. The pan of the pistol looked as if the pistol had been fired off. The cock was down, just as it is now. Mr. Nicholls came by at the time, and told me to go on with my work. He was in company with me when I found it. Mr. Nicholls called me up to that spot where I had observed the marks of two men who had been tumbling about. There was a very large hole through the hedge, and a good deal of blood on the stuff about. I could not see whether it had the appearance of anything having been drawn through it. A gig could not turn where the blood was. It must go to the end of the lane, which was about 50 poles off. About eleven o'clock on the same morning the same persons passed by in a gig, going to Batler's Green. It was an iron-grey horse. I am sure they were the same persons. I know Probert now; I did not then. I saw him on that day about twelve o'clock; he had a large dog with him, and came straight down the lane. He wished me good morning, and told me it was a good job I had done in mending the road. I said I was glad of it.

Cross-examined by Mr. Andrews—The gig might have been turned before it came to Mr. Nicholls' house, but it must be near it. I had never seen either of the two persons before.

[Richard Hunt was then called.]

The Prisoner Thurtell—My lord, I must pray you again to speak to the gentlemen of the jury on the subject which you have before mentioned, namely, the propriety of postponing further proceedings till to-morrow. I beg them to consider the peculiar situation in which I stand, having been up since six o'clock this morning. By the time the remaining witnesses, of whom I understand there are twenty still to be examined, have been gone through, I shall be too much exhausted to do justice to my defence.

Mr. Justice Park—By the law of the land, a case ought to go on till it is closed, and I am ready to go on with it. I am willing, however, to do what I can to accommodate either the gentlemen of the jury or yourself. It is with the jury, however, that the matter must rest.

Mr. Thurtell—I hope the jury will take my situation into consideration.

Mr. Justice Park—I cannot order the Court to be adjourned unless the jury desire it. It is for them to say.

Mr. Thurtell—My lord, you are very good. I hope the jury will take into consideration the situation in which I stand. Gentlemen, I have been up so many hours, and so much of the case yet remains, that I shall be exhausted before I begin my defence.

Mr. Justice Park—Gentlemen of the jury, the counsel for the Crown say that the remainder of the case will be very short.

[The jury began to consult together.]

Mr. Thurtell—But after that, my lord, there are two of us, Mr. Hunt and myself, who have to enter on the defence separately.

Mr. Justice Park—Let us then, at any rate, go on with the remainder of the case for the prosecution. I see many reasons why we should; and then if you state that you cannot conveniently go on with your defence, I will take it on myself to adjourn the Court.

Richard Hunt

Richard Hunt, examined by Mr. Broderick—I am a labourer. I was with Harrington in Gill's Hill Lane on Saturday, 25th October. I know no more than he does. I saw the two men passing through the lane. I should know them. The two gentlemen sitting there are they, I think (pointing to the two prisoners). One of them entered into conversation, and said he was capsized out of a gig. One of them had a white hat, the side bulged in; another had a black one.

W. Bulmer

William Bulmer, examined by Mr. Bolland—I am a labourer. I was walking in Probert's garden in October last. On the morning after the murder, about six o'clock, I saw two persons in that garden. The tallest of the two had a white hat. They went towards the house.

G. Nicholls

George Nicholls, examined by Mr. Broderick—I know Probert. Neither Probert nor any of his friends came to me on the night of the murder. On Monday a labourer delivered a knife and a pistol to me, which I afterwards handed over to Simmons, the officer. It was bloody. On Monday evening I observed what appeared like brains about the barrel of the pistol. Probert came to my house on Monday. Something passed between us respecting what happened in the lane.

John Pidcock

John Pidcock, examined by Mr. Bolland—I am a surgeon. I was at the Artichoke, at Elstree, when the body of Mr. Weare

was there. I took the shawl from off the neck; saw a sack over the shawl. I saw the body first at the Artichoke. When the sack was taken from the body I found a handkerchief, which I delivered to Simmons, the officer. The body was quite naked. John Pidcock

JOHN FLEET, examined by Mr. BRODERICK—I am assistant to Mr. Johnson, the messenger. On 24th October I was at the Cock public-house, in the Haymarket, acting officially under a commission. Hunt came in a gig there, about half-past four in the afternoon. He delivered a note to me, which I have destroyed. John Thurtell lived at the Cock; I have seen him living there. I knew the room he occupied; it was No. 10. The contents of the note were—"Have the goodness to give Mr. Hunt my greatcoat and red shawl, which you will find in a closet at No. 10." I went to the room, took the things out, and brought them down, and gave them to Hunt. The shawl produced is something like the shawl I gave to Hunt. I do not know the handwriting of the note. John Fleet

CAROLINE WILLIAMS, examined by Mr. BOLLAND—I was servant at the Cock, which was kept by Thomas Thurtell. His brother, John Thurtell, lodged there. He had a shawl like the one produced. C. Williams

LUCY SLATER, examined by Mr. BOLLAND—I was a servant at the Cock. John Thurtell lodged there. I have seen him use a shawl similar to the shawl produced. Lucy Slater

JOHN MARSHALL, examined by Mr. BOLLAND—I am a gun-smith in London. I know the gun produced. I saw it last a twelvemonth ago; I saw it at Mr. Weare's chambers in Lyon's Inn. John Marshall

Cross-examined by Mr. ANDREWS—It is at least a twelvemonth ago since I saw it.

By Mr. JUSTICE PARK—I have no doubt it belonged to Mr. Weare.

W. BLAKESLEY, examined by Mr. BOLLAND—In October I lodged at No. 9 King Street, Golden Square, the residence of the prisoner Hunt and his wife. I remember Hunt coming home on 27th October in a single horse chaise. I saw him take out a carpet-bag filled with things, a gun with a dark case similar to that produced, and a dressing-case similar to that on the table. They were carried into his apartments. There were also some coats. W. Blakesley

John Upson

JOHN UPSON, recalled, further examined by Mr. BRODERICK—I am an officer. I took the prisoners from London to Watford; we came in two gigs. At Watford, the next morning, a conversation took place between me and Thurtell about Hunt's confession. I made use of no previous promise or threat. In the course of the conversation about Hunt's confession I asked Thurtell what he did with the watch, and he told me that he threw it away in a place among some trees where there were some palings. This is the account he gave me.

Cross-examined by Mr. THESIGER—When we were at Watford, Hunt gave me an order for the things to be given up, and told me where they were to be found.

J. Foster

J. FOSTER, examined by Mr. BOLLAND—I am a constable at Rickmansworth. On 30th October I had Thurtell in my custody at the Plough. He made a communication to me. I made use of no previous promise or threat. He said that Hunt was a rascal for "nosing" him so; that he (Thurtell) would not do so to him (Hunt), particularly after he (Thurtell) had offered the watch for sale in Hunt's name, and as his property. He said he was offered no more than £25 for it, though it was worth £60.

[The jury here signified their willingness to accede to the prisoners' request to adjourn till the following morning.]

Mr. JUSTICE PARK—Gentlemen of the jury, you have relieved me from a great difficulty. I should not have acceded to the wish of the prisoners, had you not also expressed your concurrence in that course, one advantage arising from which will be that we shall have given the case the fullest and most patient attention. I shall now adjourn the Court until to-morrow morning. Let two of the most steady constables be sworn according to the form which I shall direct.

Two constables were then sworn "To keep the jurors in some safe and convenient place until the sitting of the Court to-morrow; to furnish them with every proper and convenient accommodation, and not to speak to them themselves, or to allow others to speak to them, touching the matter at issue, without the leave of the Court."

The Court was then adjourned to nine o'clock on the following morning.

Second Day—Wednesday, 7th January, 1824.

The Court met at nine o'clock.

Evidence for the Prosecution—continued.

Geo. Ruthven

GEORGE RUTHVEN, recalled, examined by Mr. JUSTICE PARK—I know Conduit Street, Hanover Square. I think Tetsall's house is on that side of Conduit Street that is in the parish of St. George, Hanover Square. Whitcomb Street is also in the county of Middlesex.*

Cross-examined by Mr. ANDREWS—I had Probert in custody at Mr. Nicholson's at Gill's Hill on the Tuesday. He was not in my care while the coroner's inquest was sitting. He had not at that time expressed a wish that I should convey any message to the coroner or magistrates. I subsequently told him that if he had any such wish I should convey it, as he said that he wished to explain something. I said that was no answer, and wished him to say directly what message I should convey. He then said that he wished to have communication with the magistrates. This took place two days after Hunt had made an acknowledgment. Before that Probert denied all knowledge of the transaction.

T. Thurtell

THOMAS THURTELL, recalled, examined by Mr. JUSTICE PARK—I observed that Hunt had on a suit of black clothes on the Friday. He wore the same on the next day. I do not know whose they were. I knew that he did wear some clothes of my brother's. Hunt was very badly off in the world, and had borrowed clothes from my brother and money from me. I saw Hunt on the Sunday morning, when he had the same clothes on also, but after dinner on the Sunday he was better dressed.

Mr. BOLLAND—That is the case on behalf of the Crown.

Evidence for the Prosecution closed.

Mr. JUSTICE PARK—John Thurtell, this is the time that it becomes your duty to make your defence.

Mr. JAY—My lord, my client wishes to call his witnesses first.

Mr. JUSTICE PARK—I cannot in my capacity attend to wishes; I must abide strictly by the rules of the Court. This, therefore, is the proper time for the prisoner making his defence.

* This was required to supply the formal proof that Hunt abetted in the parish and county laid in the Indictment.—E. R. W.

Speech by the Prisoner Thurtell.

John Thurtell

JOHN THURTELL—My lord, and you, gentlemen of the jury, under the pressure of greater difficulties than perhaps it has ever before fallen to the lot of man to sustain, I now appear before you to vindicate my character and preserve my life. But, appalling as are these difficulties, I have been supported under the impression that the hour would arrive when I should be enabled to defend myself in a land of liberty and fairness before that tribunal which the free institutions of my country have awarded to the accused, namely, an enlightened Court, and a jury of twelve fellow-subjects uninfluenced by prejudice and unawed by power.

I have been represented by the public Press, which carries on rapid wings to the extremity of the land either benefits or curses, as a man the most depraved, the most habitually profligate, the most gratuitously cruel, that has appeared in modern times. I have been represented as a murderer, who had perpetrated his crime with greater atrocity and under circumstances of more premeditated malice than any that has hitherto been heard of in the sad catalogue of criminals. I have been stigmatised as a callous, cruel, heartless, remorseless, prayerless villain, who had seduced his friend into a sequestered path in order the more securely to despatch him. I have been described as a viper, who had nestled in the bosom of my victim with the preconcerted intention of striking a surer blow—as a monster who, having committed a deed of horror, at which our common nature recoils, and humanity stands aghast, endeavoured to extinguish the upbraidings of conscience in the tumults of debauchery. These have been the descriptions given of me, not alone daily, but I may say hourly, by the public journals, and communicated from one extremity of the kingdom to the other.

You, gentlemen, have no doubt read them; I will not say that you have been influenced by them; but it would exact too much from the common virtue of human nature to suppose that men could entirely divest themselves of impressions so successively repeated, or that they could dispossess themselves of those feelings—those creditable feelings, I will say—which such statements, if justified, were calculated to excite. But I feel satisfied, gentlemen, that, as far as it is possible, you come to this investigation with minds unbiassed and judgments

John Thurtell.

After a pencil sketch by William Mulready, R.A.

Speech by the Prisoner Thurtell.

unaffected by the atrocious slanders which have been published against me. I feel assured that you will decide as becomes the character of that sacred office with which you are invested.

Guilt of such a complexion as that imputed to me is not the custom of this land; it must have sprung from an innate principle, which must have advanced to maturity by a continued practice in crime. It must have "grown with my growth, and strengthened with my strength"; but you shall hear from men of the most unblemished reputation, of the most unimpeachable veracity, that at least there was a period of my life when the bosom of him who now stands before you as an accused murderer throbbed with the most gentle and kindly feelings of affection and sympathy, and that my faults were those of an improvident generosity and an unsuspecting confidence. Beware then, gentlemen, of preconceived opinions; oh, beware of an anticipated verdict! Believe not that the years of a no very lengthened existence have perverted those natural feelings of benevolence; and, indeed, Nature must have taken a refluent course in my heart, if these qualities of early life were succeeded by vices which only demons could feel; rather do me the justice to believe that they are the slanderous imputations disseminated by that Press which was wont to be the shield of innocence, but which, in my case, and in the want of other intelligence, has pandered to the worst feelings of our nature.

Gentlemen, my entrance into life was under circumstances the most auspicious. I was reared by a kind, affectionate, and religious mother, who taught my lips to utter their first accents in praise of that Being who guides the conduct of your hearts and of the learned judge upon the bench. My youthful steps were directed by a father conspicuous for the possession of every good quality, but, above all, for his unaffected piety. On leaving my parental home I entered the service of our late revered monarch, who was emphatically styled the father of his people. For years I had the honour of holding his commission, and served under his colours, and I may justly take the credit to assert that I never disgraced the one nor tarnished the other. I have done my country some service. I have fought and bled for her, and in her cause have never feared to draw the steel against an open foe, against my country's enemy. But to raise the assassin's arm, and that, too, against an unsuspecting friend! believe it not; it is horrid, monstrous, and incompatible with every feeling of my heart and every habit of my life.

Thurtell and Hunt.

John Thurtell Amongst the numerous other vices attributed to me it has been said that I have been what is termed a sporting man, a gambler. To that accusation, with a true penitence of heart, I plead guilty. I was a gambler some time past, but three years have now elapsed since I entered a gaming-house, or was present at a horse race, or other sporting exhibition; but even had the charge been true, had I continued the practice, I am yet to learn why such a vice is unpardonable in me; why I am to be thrust out of the pale of society for the practice, when half the nobilty set the example, and the most enlightened statesmen have been my apologists. True, too true, I have been a gambler, but an unfortunate one! My afflicted family have been the only sufferers, and myself the only victim. I feel that I labour under great disabilities, but you know from that authority that never errs, that the human heart is deceitful above all things. Beware, then, I repeat, in the discharge of your sacred duty, of preconceived impressions, beware of an anticipated verdict!

It has been the remark of one of the sages of antiquity that no man starts decidedly wicked; and though I fear it will be too long a trespass on your attention, yet I am compelled, by the circumstances in which I am placed, to lay before you the details of my past life, calling upon you to extend to my conduct the benefit of such a truth. I fear it may be tiresome, but calumniated and charged as I am, what bosom can refuse a sigh? What eye can deny a tear? Though my pencil were dipped in the hues of heaven, it were still impossible to portray the feelings that at this moment actuate me. When you, who are to decide on my fate, carry in your mind the great hazard in which I stand; when you reflect upon the state of feeling which must accompany a mind for a long time ill at ease; when it is recollected that I have been grossly injured by those from whom I had a right to expect kindness, you will, I am sure, feel disposed to pity the sufferer and forgive his ramblings.

The close of the last war, which shed a brighter lustre than ever before beamed on the glories of our common parent land, cast a shadow on my fortunes. Having ceased to be actively employed in military service, I unhappily was induced to enter into the commercial world; I entered it under the influence of all those romantic feelings which the habits of a soldier's life had strengthened, but which were as hostile to my commercial pursuits as they were congenial with my military attachments. I considered my commercial connection in the same light as I was wont to view a military mess, and my fellow-dealers as

brother officers. I laid myself bare to the claims of the avaricious and the unfortunate; I relieved the distresses of the one, and was injured by the designs of the other. No fortune was competent to sustain this double drain to which I was subjected. I became a bankrupt! My solicitor, who had been my earliest friend, the friend of my bosom, became a traitor, and I found him, in the hour of my embarrassment, in the ranks of my bitterest enemies. John Thurtell

From the examination of my affairs I had reasons to form the most confident grounds of re-establishment. I had hoped to re-assume my station—to be again restored to the respect of my connections—to be again in possession of that self-esteem which I value above all; but a baleful influence intervened. Too frequently, alas, does the over-reaching avarice of one, running counter to the feelings and interest of the other creditors, destroy for ever the prospects of the unhappy debtor. Such was my misfortune. Thomas Osborne Springfield was my assignee. I had procured the signature of some creditors, and the promises of almost the whole, to obtain a supersedeas of the Commission of Bankruptcy; but when I thought the winter of my fortune had passed away, and that the blossoms of hope were ripening, a chilling frost came to blight them. My principal creditor demanded a bonus of £300 for his signature; in this demand he was backed by my own solicitor, who was also his. I spurned the dishonourable offer, and in so doing was cut off from the prospect of retrieving my fortune, and cast upon the world, the dupe of many, and despised by all.

My brother, Thomas Thurtell, shortly after arrived in London, and, availing himself of my assistance, embarked in the silk trade. His warehouse was accidentally destroyed by fire—accidentally, I repeat, as has been proved by the decision of a jury, at a trial at which the learned judge who sits on the bench presided; and yet this calamity was made the occasion of an attempt to fix on me the crime of removing fraudulently the goods—those goods which the verdict of a jury had decided to have been destroyed by an accidental fire, and of the truth and justice of which decision the most unexceptionable evidence and most unequivocal corroboration will be given in the approaching trial on the alleged conspiracy. But where, gentlemen, does the real conspiracy exist? where, but in the acts and expedients of the prosecutor? Yes, gentlemen, the conspiracy will be found in the suborning of evidence, in the purchasing of witnesses, in the acts of Mr. Barber Beaumont himself, the pretended corrector of abuses, the specious assertor

John Thurtell

of liberty, who has dared to hoist the standard of rebellion in the front of the palace of his Sovereign. He is of that description, who have just head enough to contrive a crime, but possess not a heart to feel for its consequences to others.

I have, my lord, perhaps given too free an expression to my feelings, but borne down as I have been by calumny and falsehood, the victim of accumulated slanders; it is impossible to confine myself to very measured language—

> The flesh will quiver where the pincers tear,
> The blood will follow where the knife is driven.

You have been told, gentlemen, amongst its other unfounded calumnies, by the public Press, that a Mr. Woods has asserted that he was inveigled into a house in Manchester Buildings, where he supposed it was intended to murder him, and that he saw me standing in the passage. Happily, I am enabled, if such a charge were at issue, to prove, from the unquestionable testimony of some most respectable individuals, that I was at the time I am thus described to be in Manchester Buildings in the city of Norwich. Of Woods I shall say no more at present; I abstain from doing so from feelings of delicacy towards a most worthy female. In proof of my respect for her, I grant to Woods the mercy of my silence.*

When I ask, gentlemen, did it ever before happen to a British subject to be called to answer for his life under such an accumulation of unfounded calumnies—such a mass of commented obloquy?—When has it ever before occurred that the very actions of a man's life, which, if truly known, would have redounded to his credit, have been, by a strange perversion, construed into proofs of guilt? and by that Press, too, which ought to be the shield of innocence, the avenger of oppression, the detector of falsehood, and, above all, the strongest support of that best security of English liberty, trial by jury! By that Press, I say, all these slanders have been heaped upon me before trial; nay, it has whetted the public appetite for slanders still more atrocious. That engine which, in other cases, would have operated to refute the imputed falsehood, has been employed to give a deeper dye to my supposed guilt. One would have thought that the claims of an honourable service spent in the army of my country would have protected me, at least till the day of trial, from such a persecution, if they did not go to

* Thurtell and Woods were said to have been rival suitors for the hand of Miss Caroline Noyes.

dissipate the numerous calumnies so studiously circulated to my disadvantage. John Thurtell

Towards me the very order of Nature has been reversed. The few days of my late misfortunes have thrown a livid shadow over the glories of days long past. The actions of my life have been misrepresented—every kind of connection and engagement which I might have formed has been ransacked to supply the magazine of slander. You have been told that even in the days of glory, when the battle's rage had ceased, and the peril of the conflict was over, the vanquishing, unoffending, yielding, nay, supplicating foe* has fallen in cold blood beneath my cowardly steel; that, not satisfied with the blood of my victim, I coolly set to plunder his person. Nay, more, that, with a folly only to be equalled by the atrocity of such an act, I subsequently boasted of the ruffianly barbarity as the exploit of a soldier! Is there an English officer, is there an English soldier, or an Englishman, whose heart would not revolt at such a dastardly deed of cold-blooded cruelty? Better, far better had it been, ere I had seen this day, that I had fallen in honourable conflict, surrounded by my brave companions, after having assisted with my arm—

To turn the tide of battle

than thus to be borne down, the object of unrelenting malignity. I should have been covered with honourable dust. My family might then, while mourning for my loss, have blessed my memory, and the glory of such a death would have rolled its fires into the fountain of their sorrows!

Before, my lord, I proceed to read the remarks on the evidence which has been offered in support of the conspiracy against me, I take the liberty to return my sincere thanks to the High Sheriff and the magistrates of this county for their kindness and attention towards me. I cannot allow the present opportunity to pass without expressing my regret that any misunderstanding should have arisen between the Rev. Mr. Lloyd and one of my solicitors. I hope and trust that all angry feelings between them have now subsided, and that the bonds of amity are ratified. To the Rev. Mr. Franklin, the chaplain of the prison, I owe my acknowledgments for his unremitting attentions, and his virtuous exertions to inspire me

* Here the prisoner was deeply affected and shed tears. Mr. Justice Park said, "Sit down, sit down." Thurtell for a moment gave way to his feelings, but soon resumed his wonted firmness.

John Thurtell

with the awful truths of religion. His exertions to awaken me to such considerations have trebly armed me to meet with firmness the trial of this day. Though last, not least, allow me to mention Mr. Wilson, the governor of the prison, whose fatherly conduct I can never forget. Memory must be indeed extinct, and my heart cold for ever, when it ceases to beat for the prosperity of himself and family.

I will now, gentlemen, call your attention to the evidence in this case, which, you will remark, instead of being clear, consistent, irresistible, is so far unlike the evidence usually adduced in support of so awful a charge that it is contradictory, inconsistent, and derived from the mouths of persons who have been willing to save their own lives by any sort of falsehood or injustice towards others.

The first witness is Beeson; he has told you that there are several roads to Probert's cottage, so that the inference drawn from the circumstance of the gig being seen with the head from Batler's Green is now done away with. He also mentions that he went out to search for the body, and that those who sought were utterly at a loss for it till they were told where it was by Hunt. Hunt could inform them where the body was, and why could he do so but because he had deposited it himself? Beeson also told you that one person could not have thrown the body into the pond where it was found. Now, what proof, I shall ask you, is there that the body ever was, as has been alleged, in Probert's pond? None but the evidence of Probert. I shall lay before you at the proper time what appears to me to be a view of the probabilities of this part of the case. There was also, Beeson tells you, a large pond near the small one in which the body was found. Who could have chosen the smaller pond but a person acquainted with the country? Who could possibly have known that the larger pond was sometimes dry and the small one not? Who but Probert himself? It appeared, in an answer to a judicious question of the learned judge, that both the sack in which the body was enveloped and the cord with which it was tied were bought by Hunt.

I pass over the evidence of Field and Upson as immaterial. The next evidence is that of Rexworthy. Rexworthy, you must recollect, is, from his own account, a gambler and a supporter of gamblers; but his evidence, if worthy of any consideration at all, contains no fact that is material against me.

The next witness who bears upon the case is Ruthven, who produces some of the articles found in the room at Tetsall's when I was apprehended; but there is no proof that these articles

Speech by the Prisoner Thurtell.

are mine. I never wear white neckcloths; I have not worn a white neckcloth for two years till this day. You have been told there was another person in the same room with me. Now, let me ask you whether it was prudent on my part, if I had done the act with which I am charged, to suffer another person to be in my room, and have thus allowed him an opportunity of discovering my guilt? Mr. Simmons produced a red shawl handkerchief, which was proved to have been worn by Hunt, and which proved nothing against me.

I now come to the only evidence which at all connects me with the crime committed—the evidence of the only man whose testimony points at me. And who is he? What is he? He is himself the murderer. Is it credible that he would have introduced me, just hot from slaughtering, to his wife? Where was the murder committed? A quarter of a mile from his own house. Where was the body found? In his own pond. Who took it there? Himself. Who took me to Tetsall's? Probert. He gives here the true account respecting the £10, but he gave a different one before the coroner and the magistrates. Is such a man to be believed? Before you doom a fellow-creature to an ignominious death, I conjure you to weigh well the statements of Hunt and Probert.

Gentlemen, are you to consign me to an ignominious death upon such evidence as this? Can you reconcile the difference between the statements of Hunt and Probert? And yet these men have been running a race to be admitted as approvers—these men have put up their evidence to auction, hoping to find a bribe in proportion to the length of their consciences. The evidence of Probert throughout clearly tends to show that the proposal of murdering Mr. Weare was familiar to him. He tells you I informed him that I was going "to do" for Mr. Weare, "for he had robbed me of several hundreds." Can you believe that I was so egregious a fool as to make such a declaration to a person who was a previous stranger to such a transaction?

Probert says, I told Hunt to stop at certain places on the road; he was a stranger to that part of the country, and Mr. and Mrs. Probert both say he never was at their cottage before. Mr. Weare was to be put down at an appointed place. Why? Because Hunt and Probert thought it was the most proper place to commit the murder. Look at Hunt's confession before the magistrates and Probert's evidence yesterday, and see whether they do not both say that this was the particular spot intended for the sanguinary deed. Is it credible that Probert would have

John Thurtell induced a stranger to visit him at a house where he had no accommodation for company, unless he had some unfair design towards him?

It is in evidence that Probert advanced 20s. to enable Hunt to go down by himself. He clearly did not take him in his gig, and in going down Hunt was allowed to purchase a loin of pork, and pay for it with Probert's money. Is not this the conduct of men who were going on a joint business? He said that I passed him 4 miles on the road, and he describes Hunt as having used some ambiguous remarks; and therefore I believe that Hunt and Probert enticed Mr. Weare near the fatal spot, and that I too was intended as their victim. I think it is clear that they had prepared themselves for this bloody business by the quantity of brandy and water which they got on the road.

Probert tells you that Hunt and I were to sleep at his house. According to Mrs. Probert's account, there was not sufficient accommodation for us. Why did he then invite me down? The motive is plain—why, in order to cast upon me the odium and the consequences of the guilty deed which he and Hunt had meditated. It must not be forgotten that there was no spare bed without depriving Miss Noyes of hers. Would you have done otherwise than he did? Is it not manifest that the object of bringing me there was to throw all suspicion from himself upon me? The conversation which Probert attributes to me on the night in question is utterly inconsistent with his own innocence. Is it possible that I should have introduced matters of such great and awful danger to a man like Probert if he himself had no previous intimation on the subject?

Probert, in his evidence, has not failed to press into his service the most gratuitous odium upon my character, and has invented things which could never have been said by me. He says I told him that I would murder Mr. Barber Beaumont and Mr. Woods, the latter being on the eve of marrying Mrs. Probert's sister, and then keeping company with her. If such had been my intention, is it credible that I should have mentioned such a subject to Probert, above all other persons?

Observe next the difference between the evidence of Probert and that of his wife. He says that I and Hunt went for the body and took it over Mr. Wardle's field near to the gate, and that we then dragged it to the bank of the pond. Mrs. Probert says we took it into the stable and dragged it down the walk from the stable to the pond. Probert said that we had no lantern; but Mrs. Probert winds up this part of the story by saying that it was a fine moonlight night. These are manifest

contradictions, but they are still more obvious when you come to consider the local situation of the garden in which they lay this scene. The garden, as described by Probert, had a house on one side and a stable on the other, which last was in such a situation that it was impossible for him to have seen what he describes. Probert says that after this he went to bed immediately; and I beg you will bear it in mind that he also states that he did not get up next morning till nine o'clock, a fact which is flatly contradicted by the evidence of his servant boy. Probert states that he told me on Sunday that Mr. Nicholls knew all about this business, and that I then said, "I am baked"; and yet after this warning I returned to town, to the place where I usually lived, and where I was well known, and could easily have been found at any time, and where, in fact, I was found. Mrs. Probert says that Hunt came down in dirty clothes, and that those very clothes were seen on him on the Friday night, although, previously to his leaving London, I had lent him some of my brother's clothes, which he did not return to me till Tuesday, the day before my apprehension. Probert has told you, in order to add weight to his testimony, that on the Monday I took his servant out of the way, that he might not answer questions; but the truth is that the very next day Probert was to quit his cottage, having received a regular notice to quit from his landlord.

Gentlemen, I will not disgust you by many more remarks upon this cold-blooded act. I cannot help persuading myself that the discrepancies I have already pointed out are quite sufficient to discredit such witnesses in your judgment; and I am sure at least you will receive with great caution the testimony of such a man as Probert. Between him and Hunt you will bear in mind that there has been a struggle who should obtain the mercy of the Crown. He has been admitted as an approver, and therefore every word of his testimony must be regarded with the strongest suspicion. You will observe that after much prevarication, and after swearing in his examination-in-chief that he did not come downstairs on the Saturday morning till after nine o'clock, he refuses to swear that it was so late as eight, although his servant boy swears it was but seven. You will not fail to have remarked on the character of this witness. It was wrung from him by Mr. Andrews, that he had six or seven times been committed by the Commissioners under his bankruptcy for perjury; you will not forget that he introduced Hunt to me with an intention which is now too manifest.

John Thurtell

The disgusting affectation with which Mrs. Probert gave her evidence is quite sufficient to lay her credit under the strongest suspicion. What faith can you put in the testimony of a female who confesses that she put round her neck the gold chain which had been plundered from the murdered man, and that after the sanguinary tragedy had been perpetrated she called upon the blood-stained Hunt to sing her a song? You will recollect that this is the conduct of a woman who well knew that a murder had just been committed, and that the hand of the assassin, whom she called upon to sing, was still reeking with his victim's blood. The bare statement of this fact is sufficient to overwhelm her as a witness, and render her utterly unworthy of her sex. I must, however, call your attention to some of the facts which she has stated. She says she saw two men bring a horse to take the body out of the back gate; that some digging took place on the spot; and that she saw the body carried out. She also details a long conversation in whispers between myself and her husband, which, she says, took place at the distance of a flight of stairs from one door to another. In answer to a question put by the learned judge, she says that this long conversation was after she had seen the digging, and yet her husband says that immediately after leaving the body, he went to bed. Is it not clear, gentlemen, that this whispering, pretended to have been overheard, was a scheme settled between Probert and his wife?

I know not, but I believe most firmly, that the body never was in Probert's pond. From Mrs. Probert's description of what is called the garden and yard gate you will see that my statement is confirmed, as well also by the difference between her and her husband's statement as to the bringing in of the body. I may here explain the circumstance of the supposed grave by telling you that it was a potato field, and that the potatoes were taken away previously to Probert's leaving the cottage.

Probert said that the body was stripped by the side of the pond, but I could not learn from the evidence on which side it was. In the print in the *Observer* of 9th November it is represented to have been on the opposite side to where Mrs. Probert says she saw it dragging. From the evidence of Probert and others it is clearly proved that Hunt hired the horse and gig, and got everything ready on the occasion; and from the evidence of Fleet it is found that Hunt took the shovel, which has been produced. Probert supplied the sovereign to pay Hunt's expenses.

Speech by the Prisoner Thurtell.

I beg to call your serious consideration to the evidence of Mr. Clarke, the landlord of the White Lion, at Edgware. You will remember he states that as he was returning home he met a gig on the wrong side of the road, and that at the same time a coach was passing, by the lamps of which he was enabled to distinguish my person. Does not your own experience prove this to be false? And I now hereby declare most solemnly that it is utterly false. Is it possible that on a wide road, in a dark night, a man passing at a quick rate, being 30 yards off, could be able to distinguish the countenance of another in an opposed gig, by the lamps of a coach? Would not the lamps in such a case hinder rather than assist the view? Does not every night's experience prove this? But the circumstance of my being on the off side, and having, as he says, a gentleman with me, is, I submit to you, the strongest proof that he could not catch a glimpse of my countenance. We all know, according to general principles, that when a witness tries to prove too much he fails in every particular. The testimony of Mr. Clarke is therefore not to be depended upon, and I shall be able to prove that he is a man on whom no reliance can be placed. John Thurtell

I beg also to draw your attention to the evidence of the hackney coachman who set Mr. Weare down at a quarter-past four o'clock. You will please to recollect that he said positively it was half-past four when the deceased left his coach, that I met him, and assisted in carrying away his bag. Now, all the other witnesses say that I did not leave Mr. Tetsall's till five. These facts prove that I could not be the man who met him, and establish the fact that some other person must have met the deceased. It is obvious, therefore, that this coachman is also introduced to assist in the conspiracy against me; and I have no doubt that if he had been allowed to see me in prison, and I had been pointed out, he, too, like the other witnesses, would have identified me.

The witness Freeman says he met a gig in Gill's Hill Lane. Before the magistrates he said it was a yellow gig, but now he says he never did so, although to my perfect recollection he did. The evidence of Mr. Clarke's ostler proves that the night was so dark that it was impossible to distinguish anything. Probert, who I am sure you will think is unworthy of credit, says, if my recollection be correct——

Mr. Justice Park—Prisoner, I don't wish to interrupt you, but I wish you not to deceive yourself by stating as a fact that which is not well founded. In the depositions taken before the magistrates, which I have before me, it does not appear

John Thurtell that the witness Freeman asserted that it was a yellow gig; you have asserted that he did so, but I cannot allow that to be said. Go on with your observations. I only interrupt you for your own sake.

JOHN THURTELL—That is the strong impression upon my mind, I assure your lordship. The evidence of Probert is that he left the Artichoke public-house eleven minutes before nine, but Mr. Field says that he left at a quarter-past seven.* Taking this statement to be true, it is clear that Probert and Hunt had time enough to go to the top of Gill's Hill Lane and return to the Artichoke after they had perpetrated the murder, so as to enable them to throw the guilt upon the shoulders of any other person than their own. Can you believe, or can anybody believe, that Probert, without some inquiry, would have left his companion Hunt on a dark night, at nine o'clock, half a mile from his own cottage? Is that possible, or can you be so much imposed upon as to believe it? No; I am satisfied you will not. I am satisfied you will consider this circumstance as sufficient to overrule Probert's statement; and without that there is no evidence to support the charge against me.

I must now advert to the testimony of Mr. Clarke's ostler. He stated that two gentlemen arrived at his master's house at a quarter-past seven; that it was dark, and that he could not distinguish the countenance of either; and yet he takes upon himself to distinguish the countenance of one of the gentlemen, whom the laundry-maid comes forward to say she believes was Mr. Weare. But, gentlemen, there is no other person to prove this fact; there is no other person to prove that the gig did stop at his master's house. And, let me ask you, when this unhappy business was agitated, why did not the ostler come forward to offer his evidence at the coroner's inquest, or before the magistrates? He certainly did not; and he now comes forward for the first time. I now declare that, looking at Mr. Clarke's evidence and the ostler's, it was utterly impossible for me to have been seen by them.

As to the evidence of the man who sold the pistols, I am sure you must be satisfied it does not at all identify me with this transaction. With respect to the evidence given by Upson and Foster, as to the conversation they have mentioned, certainly

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* The prisoner has misstated the evidence. It was Field who spoke to the hour as 11 minutes before 9. Probert said it was "about 10 minutes before 8" when he arrived, and that he stopped three-quarters of an hour, making it past 8.30 when he left. Field said he stopped 30 or 35 minutes. *Cf. ante*, pp. 75, 97.—E. R. W.

something of the kind did occur, but they have entirely mistaken the purport and nature of it. I am quite certain that the real meaning of anything I might say was no more than to express my disapprobation of the persons suspected, and to designate them by the word "scoundrel." If I had been in this horrible affair I certainly would never have betrayed my companions. Enough has been said to you about the watch; it has been most minutely and circumstantially described, and yet it is not forthcoming. Have you not a right, and have I not a still greater right to ask, "Where is it? What has become of it? Why do they not produce it?" John Thurtell

My lord and gentlemen of the jury, I ought to rejoice that the circumstances alone on which the prosecutors rely in support of their case afford the strongest evidence of my innocence. The case for the prosecution is founded entirely on circumstantial evidence. I have demonstrated to you that the circumstances proved do not point at me as being concerned in the perpetration of this murder. But, gentlemen, circumstantial evidence is at best but a fearful guide to human judgment. If human judgment is to be guided by circumstantial evidence alone, the greatest errors may be committed. Nothing can be more frail, more liable to deception and false conclusions, than mere circumstances, which are at all times equivocal. In the annals of foreign and domestic jurisprudence some of the most melancholy and dreadful instances are to be found of a too fatal adherence to the supposed infallibility of circumstantial evidence. Among the former we find a father condemned to death, upon mere circumstances, for the supposed murder of a child, and a poor servant girl convicted of a theft of which she was wholly guiltless. The names of Calas and of the maid of Palaiseau* present an awful lesson to judges and to jurors, who have to decide upon the lives of their fellow-creatures. In our own happy country instances have been less frequent, but, still, they have occurred often enough to inspire jurors with the utmost caution.

My Lord Hale, in his *Pleas of the Crown*, vol. 2, p. 200, says, "I could never convict any person of murder or manslaughter unless evidence of the most satisfactory nature respecting the body of the deceased, and the nature of the wounds

* This case is in the *Recueil des Causes Célèbres*, and in English is *La Pie Voleuse*, or "The Magpie and the Maid" (1815), a story of a servant condemned for thefts of silver spoons stolen by a magpie. It had a great success as a cheap melodrama, after the execution of Eliza Fenning had stirred the popular imagination.—E. R. W.

John Thurtell

which had caused his death, should be produced in aid of the circumstances by which the accusation was to be supported." The same learned judge quotes a case showing the necessity of such a resolution, which he states to have happened in Staffordshire within his own recollection. A was missing, and there being a strong presumption that he had been despatched by B, who was suspected of having consumed his body to ashes in his own oven; B was indicted for the murder, convicted, and executed. About a year afterwards A returned home from beyond the seas, whither he had been sent by B against his will; so that, although perhaps B really deserved death, he was clearly innocent of that crime for which he suffered.

Another case, from the same high authority, was that of a nobleman who had the care of bringing up his niece, to whom he was the next in succession to certain property. The child, it seems, had committed some offence, for which her uncle had found it necessary to correct her, and she had been overheard saying, "Good uncle, don't kill me." The child was afterwards not to be found. The uncle was committed for the murder, and the judge before whom he was tried admonished him to find the child against the next assizes. When that period arrived the uncle could not find the child, but produced another, like his niece in years and in figure. On examination, it was discovered that this child was not the one which had disappeared, and the uncle was found guilty and executed. It appeared afterwards that the child had been terrified, had run away, and had been received by a stranger, who maintained her; and when she became of age she claimed her land, and was put in possession of it, having satisfactorily proved herself to be the true child.

[Thurtell then proceeded to read from the *Percy Anecdotes*, a work which, he observed, was dedicated to the Lord Chancellor, the following interesting cases of conviction on circumstantial evidence:—

Case of the Farmer in the Reign of Queen Elizabeth.

In the reign of Queen Elizabeth, a person was arraigned before Sir James Dyer, Lord Chief Justice of the Common Pleas,* from whose own notes the account is said to have been taken, upon an indictment for the murder of a man who dwelt in the same parish with the prisoner.

The first witness against him deposed, that on a certain day,

* What makes this anecdote doubtful is that at this date the Judges of the Common Pleas did not, so Lord Campbell states, try pleas of the Crown. It is quite certain that they did later, however.—E.R.W.

mentioned by the witness, in the morning, as he was going through a close, which he particularly described, at some distance from the path, he saw a person lying dead, and that two wounds appeared in his breast, and his shirt and clothes were much stained with blood; that the wounds appeared to the witness to have been made by the puncture of a pitchfork or some such instrument, and looking about he discovered a fork lying near the corpse, which he took up, and observed it to be marked with the initials of the prisoner's name. Here the witness produced the fork in Court, which the prisoner owned to be his. John Thurtell

The prisoner waived asking the witness any questions.

A second witness deposed, that on the morning of the day on which the deceased was killed, the witness had risen very early with an intention of going to a neighbouring market town, which he mentioned; that as he was standing in the entry of his own dwelling-house, the street door being open, he saw the prisoner come by dressed in a suit of clothes, the colour and fashion of which he described; that he (the witness) was prevented from going to market, and that afterwards the first witness brought notice to the town of the death and wounds of the deceased, and of the prisoner's fork being found near the corpse; that upon this report the prisoner was apprehended, and carried before a justice of peace; that he, this witness, followed the prisoner to the justice's house, and attended his examination, during which he observed the exchange of clothes the prisoner had made since the time he had seen him in the morning; that on the witness charging him with having changed his clothes, he gave several shuffling answers, and would have denied it; that upon witness mentioning this circumstance of change of dress, the justice granted a warrant to search the prisoner's house for the clothes described by the witness as having been put off since the morning; that this witness attended and assisted at the search; that after a nice search of two hours and upwards, the very clothes the witness had described, were discovered concealed in a straw bed. He then produced the bloody clothes in Court, which the prisoner owned to be his clothes, and to have been thrust in the straw bed with the intention to conceal them on the account of their being bloody.

The prisoner also waived asking this second witness any questions.

A third witness deposed to his having heard the prisoner deliver certain menaces against the deceased, whence the prosecutor intended to infer a proof of *malice prepense*. In answer to this the prisoner proposed certain questions to the Court, leading to a discovery of the occasion of the menacing expressions deposed to; and from the witness's answers to those questions, it appeared that the deceased had first menaced the prisoner.

The prisoner being called upon for his defence, addressed the following narration to the Court, as containing all he knew concerning the manner and circumstances of the death of the deceased. "He rented a close in the same parish with the deceased, and the deceased rented another close adjoining it. The only way to his own close was through that of the deceased; and on the day the murder in the indictment was said to be committed, he rose early in the morning, in order to go to work in his close with his fork in his hand; and passing through the deceased's ground, he observed a man at some distance from the path, lying down as if dead or drunk; he thought himself bound to see what condition the person was in; and on getting up to him he found him in the last extremity, with two wounds in his breast, from which much blood had issued. In order to relieve him he raised him up, and with great difficulty sat him on his lap; he

John Thurtell told the deceased he was greatly concerned at his unhappy fate, and the more so as there appeared reason to think he had been murdered. He entreated the deceased to discover, if possible, who it was, assuring him he would do his best endeavours to bring him to justice. The deceased seemed to be sensible of what he said, and in the midst of his agonies, attempted to speak to him, but was seized with a rattling in his throat, gave a hard struggle, then a dreadful groan, and vomiting a deal of blood, some of which fell on his (the prisoner's) clothes, he expired in his arms. The shock he felt on account of this accident was not to be expressed, and the rather as it was well known that there had been a difference between the deceased and himself, on which account he might possibly be suspected of the murder. He therefore thought it advisable to leave the deceased in the condition he was, and take no further notice of the matter. In the confusion he was in when he left the place, he took the deceased's fork away instead of his own, which was by the side of the corpse. Being obliged to go to his work, he thought it best to shift his clothes, and that they might not be seen, he confessed that he had hid them in the place where they were found. It was true he had denied before the justice that he had changed his clothes, being conscious this was an ugly circumstance that might be urged against him, being unwilling to be brought into trouble if he could help it. He concluded his story with a most solemn declaration that he had related nothing but the exact truth, without adding or diminishing one tittle, as he would answer for it to God Almighty.

Being then called upon to produce his witnesses, the prisoner answered with a steady, composed countenance, and resolution of voice, "he had no witnesses but God and his own conscience."

The judge then proceeded to deliver his charge, in which he particularly enlarged on the heinousness of the crime, and laid great stress on the force of the evidence, although *circumstantial only*, he declared he thought to be irresistible, and little inferior to the most positive proof. The prisoner had indeed cooked up a very plausible story; but, if such or the like allegations were to be admitted in a case of this kind, no murderer would ever be brought to justice, such deeds being generally perpetrated in the dark, and with the greatest secrecy. The present case was exempted, in his opinion, from all possibility of doubt, and they ought not to hesitate one moment about finding the prisoner guilty.

The foreman begged of his lordship, as this was a case of life and death, that the jury might withdraw; and upon this motion an officer was sworn to keep the jury locked up.

This trial came on the first in the morning; and the judge having sat till nine at night expecting the return of the jury, at last sent an officer to inquire if they were agreed on their verdict. Some of them returned for answer, that eleven of their body had been of the same mind from the first, but that it was their misfortune to have a foreman who, having taken up a different opinion from them, was unalterably fixed in it. The messenger had no sooner gone than the complaining members, alarmed at the thought of being under confinement all night, and despairing of bringing their dissenting brother over to their own way of thinking, agreed to accede to his opinion, and having acquainted him with their resolution, they sent an officer to detain his lordship a few minutes, and then went into Court, and by their foreman brought in the prisoner not guilty.

His lordship could not help expressing the greatest surprise and indignation at this unexpected verdict; and, after giving the jury a severe admonition, he refused to record the verdict, and sent them

back again with directions that they should be locked up all night without fire or candle. The whole blame was publicly laid on the foreman by the rest of the members, and they spent the night in loading him with reflections, and bewailing their unhappy fate in being so associated with so hardened a wretch. But he remained inflexible, constantly declaring he would suffer death rather than change his opinion. John Thurtell

As soon as his lordship came into Court next morning he sent again to the jury, on which the eleven members joined in requesting their foreman to go into Court, assuring him they would abide by their former verdict whatever was the consequence; and, on being reproached with their former inconstancy, they promised never to desert or recriminate upon their foreman any more.

Upon these assurances they proceeded again into Court, and again brought in the prisoner not guilty. The judge, unable to conceal his rage at a verdict which appeared to him in the most iniquitous light, reproached them severely, and dismissed them with the cutting reflection, "That the blood of the deceased lay at their doors."

The prisoner on his part fell down on his knees, and, with uplifted eyes and hands to God, thanked Him most devoutly for his deliverance; and, addressing himself to the judge, cried out, "You see, my lord, that God and a good conscience are the best witnesses."*

The circumstance made a deep impression on the mind of the judge; and, as soon as he had retired from Court, he entered into conversation with the high sheriff upon what had passed, and particularly examined him as to his knowledge of the foreman of the jury. The high sheriff answered his lordship that he had been acquainted with him many years; that he had a freehold estate of his own of above £50 a year; and that he rented a very considerable farm besides; that he never knew him charged with an ill action, and that he was universally beloved and esteemed in his neighbourhood. For further information his lordship sent for the minister of the parish, who gave the same favourable account of his parishioner, with this addition—that he was a constant churchman and a devout communicant. These accounts increased his lordship's perplexity, from which he could think of no expedient to deliver himself but by having a conference in private with the only person who could give him satisfaction; this he requested the sheriff to procure, who readily offered his service, and without delay brought about the desired interview.

Upon the foreman of the jury being introduced to the judge, his lordship retired with him into a closet, where his lordship opened his reasons for desiring that visit, making no scruple of acknowledging the uneasiness he was under on account of the verdict, and conjuring his visitor frankly to discover his reasons for acquitting the prisoner. The juryman returned for answer that he had sufficient reasons to justify his conduct, and that he was neither ashamed nor afraid to reveal them; but as he had hitherto locked them up in his own breast, and was under no compulsion to disclose them, he expected his lordship would engage upon his honour to keep what he was about to unfold to him a secret, as he himself had done. His lordship having done so, the juryman proceeded to give his lordship the following account:—"The deceased being the tithe-man where he (the juryman) lived, he had the morning of his decease, been in his (the juryman's) ground, amongst his corn, and had done him great injustice by taking more than his due, and acting otherwise in a most

* When Thurtell arrived at this passage, his voice faltered, and he shed a few tears; but almost instantly recovering himself, he put his hand to his eyes, and then with a firm voice proceeded.

John Thurtell

arbitrary manner. When he complained of this treatment he had not only been abused with scurrilous language, but the deceased had struck at him several times with his fork, and had actually wounded him in two places, the scars of which wounds he then showed his lordship. The deceased seemed bent on mischief, and the farmer having no weapon to defend himself, had no other way to preserve his own life but by closing in with the deceased and wrenching the fork out of his hands, which having effected, the deceased attempted to recover the fork, and in the scuffle received the two wounds which had occasioned his death. The farmer was inexpressibly concerned at the accident which occasioned the man's death, and especially when the prisoner was taken up on suspicion of the murder. But the assizes being just over, he was unwilling to surrender himself and to confess the matter, because his farm and affairs would have been ruined by lying so long in gaol. He was sure to have been acquitted on his trial, for he had consulted the ablest lawyers upon the case, who all agreed that as the deceased had been aggressor, he could only have been guilty of manslaughter at most. It was true he had suffered greatly in his own mind on the prisoner's account; but being well assured that imprisonment would be of less consequence to the prisoner than to himself, he had suffered the law to take its course. In order, however, to render the prisoner's confinement as easy to him as possible, he had given him every kind of assistance, and had wholly supported his family ever since. And, to get him clear of the charge laid against him, he had procured himself to be summoned on the jury, and sat at the head of them; having all along determined in his own breast rather to die himself than to suffer any harm to be done to the prisoner."

His lordship expressed great satisfaction at this account; and after thanking the farmer for it, and making this farther stipulation, that in case his lordship should survive him, he might then be at liberty to relate this fact, that it might be delivered down to posterity, the conference broke up.

The juryman lived fifteen years afterwards; the judge inquired after him every year, and happening to survive him, felt himself at liberty to make a disclosure of this extraordinary occurrence.

Case of a Man Unjustly Executed for the Supposed Murder of His Father.

A man was tried for, and convicted of, the murder of his own father. The evidence against him was merely circumstantial, and the principal witness was his sister. She proved that her father possessed a small income which, with his industry, enabled him to live with comfort; that her brother, who was his heir-at-law, had often expressed a great desire to come into possession of his father's effects; and that he had long behaved in a very undutiful manner to him, wishing, as the witness believed, to put a period to his existence by uneasiness and vexation; that on the evening the murder was committed, the deceased went a small distance from the house to milk a cow he had for some time kept, and that the witness also went out to spend the evening and to sleep, leaving only her brother in the house; that returning home early in the morning, and finding that her father and brother were both absent, she was much alarmed, and sent for some of the neighbours to consult with them, and to receive advice what should be done; that in company with these neighbours

she went to the hovel in which her father was accustomed to milk the cow, where they found him murdered in a most inhuman manner; that a suspicion immediately falling on her brother, and there being then some snow upon the ground, in which the footsteps of a human being to and from the hovel were observed, it was agreed to take one of her brother's shoes and to measure therewith the impressions in the snow. This was done, and there did not remain a doubt that the impressions were made with his shoes Thus confirmed in their suspicions, they then immediately went to the prisoner's room, and after a diligent search they found a hammer in the corner of a private drawer with several spots of blood upon it.

The circumstance of finding the deceased, and the hammer, and the identity of the footsteps, as described by the former witness, were fully proved by the neighbours whom she had called; and upon this evidence the prisoner was convicted and suffered death, but denied the act to the last.

About four years after, the sister, who had been chief witness, was extremely ill; and understanding that there were no hopes of her recovery, she confessed that her father and brother having offended her, she was determined they should both die; and accordingly, when the former went to milk the cow, she followed him with her brother's hammer, and in his shoes; that she felled her father with the hammer, and laid it where it was afterwards found; that she then went from home, to give a better colour to the horrid transaction; that her brother was perfectly innocent of the crime for which he had suffered.

She was immediately taken into custody, but died before she could be brought to trial.

Case of William Shaw, Executed on Circumstantial Evidence, for the Supposed Murder of His Daughter.

An upholsterer of the name of William Shaw,* who was residing at Edinburgh in the year 1721, had a daughter Catherine, who lived with him, and who encouraged the addresses of John Lawson, a jeweller, contrary to the wishes of her father, who had insuperable objections against him, and urged his daughter to receive the addresses of a son of Alexander Robertson, a friend and neighbour. The girl refused most peremptorily. The father grew enraged. Passionate expressions arose on both sides, and the words "barbarity, cruelty, and death" were frequently pronounced by the daughter. At length her father left her, locking the door after him.

The apartment of Shaw was only divided by a slight partition from that of one Morrison, a watchcase maker, who had indistinctly heard the conversation and quarrel between Catherine Shaw and her father; and was particularly struck with the words she pronounced so emphatically. For some time after the father had gone out all was silent; but presently Morrison heard several groans from the daughter. He called in some of the neighbours; and these listening attentively, not only heard the groans, but also her faintly exclaim, "Cruel father, thou art the cause of my death!" Struck with the expression, they got a constable, and forced the door of Shaw's apartment, where they found the daughter weltering in her blood, and a knife by her side. She was alive and speechless, but on question-

*This case is related in *La Pie Voleuse* (1815), as an illustration of the danger of convicting on circumstantial evidence.

John Thurtell

ing her as to owning her death to her father, she was just able to make a motion with her head, apparently in the affirmative, and then expired.

At this moment Shaw enters the room. All eyes are upon him. He sees his neighbours and a constable in his apartment, and seems much disordered; but at the sight of his daughter he turns pale, trembles, and is ready to sink. The first surprise and the succeeding horror leave little doubt of his guilt in the breasts of the beholders; and even that little is done away on the constable discovering that the shirt of William Shaw is bloody.

He was instantly hurried before a magistrate, and upon the deposition of the parties, committed for trial. In vain did he protest his innocence, and declare that the blood on his shirt was occasioned by his having blooded himself some days before, and the bandage having become untied. The circumstances appeared so strong against him that he was found guilty, was executed, and hung in chains at Leith. His last words were, "I am innocent of my daughter's murder."

There was scarcely a person in Edinburgh who thought the father innocent; but in the following year a man who had become the occupant of Shaw's apartment, accidentally discovered a paper which had fallen into a cavity on one side of the chimney. It was folded as a letter, and on opening it was found to contain as follows:—"Barbarous father! your cruelty in having put it out of my power ever to join my fate to that of the only man I could love, and tyrannically insisting upon my marrying one whom I always hated, has made me form a resolution to put an end to an existence which is become a burden to me."

This letter was signed "Catherine Shaw"; and on being shown to her relations and friends it was recognised as her writing. The magistracy of Edinburgh examined it, and on being satisfied of its authenticity, they ordered the body of William Shaw to be taken from the gibbet and given to his family for interment; and as the only reparation to his memory, and the honour of his surviving relations, they caused a pair of colours to be waved over his grave in token of his innocence.

Case of Jonathan Bradford, Executed for the Supposed Murder of Mr. Hayes.

In the year 1736, Mr. Hayes, a gentleman of fortune, in travelling, stopped at an inn in Oxfordshire, kept by one Jonathan Bradford. He there met with two gentlemen, with whom he supped, and in conversation unguardedly mentioned that he had then with him a considerable sum of money. Having retired to rest, the two gentlemen, who slept in a double-bedded room, were awakened by deep groans in the adjoining chamber. They instantly arose, and proceeded silently to the room where the groans were heard. The door was half open, and on entering they perceived a person weltering in his blood, in the bed, and a man standing over him with a dark lantern in one hand and a knife in the other. They soon discovered that the gentleman murdered was the one with whom they had supped, and that the man who was standing over him was their host. They instantly seized him, disarmed him of the knife, and charged him with being the murderer. He positively denied the crime, and asserted that he came there with the same intentions as themselves;

for, that hearing a noise, which was succeeded by groans, he got up, struck a light, and armed himself with a knife in his defence, and was but that minute entered the room before them. John Thurtell

These assertions were of no avail; he was kept in close custody until morning, when he was taken before a neighbouring justice of the peace, to whom the evidence appeared so decisive, that on writing out his mittimus he hesitated not to say, "Mr. Bradford, either you or myself committed this murder."

At the ensuing assizes at Oxford, Bradford was tried, convicted, and shortly after executed, still, however, declaring that he was not guilty of the murder. This afterwards proved to be true; the murder was actually committed by Mr. Hayes's footman, who, immediately on stabbing his master, rifled his pockets and escaped to his own room, which was scarcely two seconds before Bradford's entering the chamber. The world owes this knowledge to a remorse of conscience of the footman on his deathbed, eighteen months after the murder; and dying almost immediately after he had made the declaration, Justice lost its victim.

It is, however, remarkable that Bradford, though innocent, and not at all privy to the murder, was nevertheless a murderer in design. He confessed to the clergyman who attended him after his sentence that having heard that Mr. Hayes had a large sum of money about him, he went to the chamber with the same diabolical intentions as the servant. He was struck with amazement; he could not believe his senses; and in turning back the bedclothes to assure himself of the fact, he in his agitation dropped his knife on the bleeding body, by which both his hand and the knife became stained, and thus increased the suspicious circumstances in which he was found.

Case of John Jennings, Executed on a False Charge of Robbery.

In the year 1742 a gentleman in travelling was stopped by a highwayman in a mask, within about seven miles of Hull, and robbed of a purse containing twenty guineas. The gentleman proceeded about two miles further, and stopped at the Bull Inn, kept by Mr. Brunell. He related the circumstance of the robbery, adding that as all his gold was marked, he thought it probable that the robber would be detected. After he had supped, his host entered the room and told him a circumstance had arisen which led him to think that he could point out the robber. He then informed the gentleman that he had a waiter, one John Jennings, whose conduct had long been very suspicious: he had long before dark sent him out to change a guinea for him, and that he had only come back since he (the gentleman) was in the house, saying he could not get change; that Jennings being in liquor, he sent him to bed, resolving to discharge him in the morning; that at the time he returned him the guinea, he discovered it was not the same he had given him, but was marked, of which he took no further notice until he heard the particulars of the robbery, and that the guineas which the highwayman had taken were all marked. He added that he had unluckily paid away the marked guinea to a man who lived at some distance.

Mr. Brunell was thanked for his information, and it was resolved to go softly to the room of Jennings, whom they found fast asleep; his pockets were searched, and from one of them was drawn a purse containing exactly nineteen guineas, which the gentleman identified.

John Thurtell

Jennings was dragged out of bed, and charged with the robbery. He denied it most solemnly; but the facts having been deposed to on oath by the gentleman and Mr. Brunell, he was committed for trial.

So strong did the circumstances appear against Jennings that several of his friends advised him to plead guilty, and throw himself on the mercy of the Court. This advice he rejected; he was tried at the ensuing assizes, and the jury without going out of Court found him guilty. He was executed at Hull a short time after, but declared his innocence to the very last.

In less than twelve months after this event occurred, Brunell, the master of Jennings, was himself taken up for a robbery committed on a guest in his house, and the fact being proved on his trial, he was convicted and ordered for execution.

The approach of death brought on repentance; and repentance, confession. Brunell not only acknowledged having committed many highway robberies, but also the very one for which poor Jennings suffered. The account he gave was that after robbing the gentleman he arrived at home some time before him. That he found a man at home waiting, to whom he owed a small bill, and not having quite enough of money, he took out of the purse one guinea from the twenty which he had just possessed himself of, to make up the sum, which he paid to the man, who then went away. Soon after the gentleman came to his house, and relating the account of the robbery, and that the guineas were marked, he became thunderstruck. Having paid one of them away, and not daring to apply for it again, as the affair of the robbery and the marked guineas would soon become publicly known, detection, disgrace, and ruin appeared inevitable. Turning in his mind every way to escape, the thought of accusing and sacrificing poor Jennings at last struck him; and thus to his other crimes he added that of the murder of an innocent man.

Cases of Conviction on Circumstantial Evidence in France.

The case of M. de Pivardiere is one of the most singular instances of criminal precipitation and iniquity that the annals of French justice furnish. Madame de Chauvelin, his second wife, was accused of having had him assassinated in his castle. Two servant maids were witnesses of the murder; his own daughter heard the cries and last words of her father: "My God! have mercy upon me!" One of the maid servants, falling dangerously ill, took the sacrament; and while she was performing the solemn act of religion, declared before God that her mistress intended to kill her master. Several other witnesses testified that they had seen linen stained with his blood; others declared that they had heard the report of a gun, by which the assassination was supposed to have been committed. And yet, strange to relate, it turned out after all that there was no gun fired, no blood shed, nobody killed! What remains is still more extraordinary: M. de la Pivardiere returned home; he appears in person before the judges of the province, who were preparing everything to execute vengeance on his murderer. The judges are resolved not to lose their process; they affirm to his face that he is dead; they brand him with the accusation of imposture for saying that he is alive; they tell him that he deserves exemplary punishment for coining a lie

before the tribunal of justice; and maintain that their procedure is more credible than his testimony! In a word, this criminal process continued eighteen months before the poor gentleman could obtain a declaration of the Court that he was alive! John Thurtell

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In the year 1770 a person of the name of Monthaille, without any accuser, witness, or any probable or even suspicious circumstances, was seized by the superior tribunal of Arras and condemned to have his hand cut off, to be broken on the wheel, and to be afterwards burnt alive, for killing his mother. This sentence was executed, and his wife was on the point of being thrown into the flames as his accomplice, when she pleaded that she was *enceinte*, and gave the Chancellor of France, who was informed of the infernal iniquity that was perpetrating in the sacred name of justice, time to have the sentence as to her reversed.

["The pen trembles in my hand," says Voltaire, "when I relate these enormities! We have seen, by the letters of several French lawyers, that not one year passes in which one tribunal or another does not stain the gibbet or the rack with the blood of unfortunate citizens whose innocence is afterwards ascertained when it is too late."]

Gentlemen, there is one more case to which I shall call your attention. It is from the *Newgate Calendar*. As it is long, I shall not detain you by reading it all, but shall give you the heads of it. It is the trial of a man named Coleman, in 1748, at Kingston, for the murder of a young woman. The young woman lived for ten weeks after receiving the wounds which eventually caused her death. She stated before her death that she had been attacked by a man named Coleman. Coleman was taken up, and, a strong case of circumstances being made out against him, he was executed, protesting his innocence to the last moment. In about three years after this two persons were tried for another murder and found guilty; they then confessed that Coleman had suffered undeservedly, that he was wholly innocent of the crime. They acknowledged that it was committed by one of them, who assumed the name of Coleman in order that he (Coleman) might afterwards be charged with it.

And now, gentlemen, having read these cases* to you, am I

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* It must be stated that none of the English cases referred to by the prisoner can in any way be traced from the Circuit Records except this last one. Coleman's Indictment is in R.O. Ass. 35/189; that of the two men subsequently convicted is in R.O. Ass. 35/191. There were five witnesses in Coleman's case, and six against the other two—Welsh and Jones. Not a single witness appeared in *both* cases. James Nicholls turned "approver." For a better outline of the facts, see *Gentleman's Magazine*, 1749 and 1751. No such persons as Bradford or Jennings appear to have been indicted or convicted at the dates assigned. I have examined the indictments and books of the Oxford and Northern Circuits with care.—E. R. W.

John Thurtell

not justified in saying that unless you are thoroughly convinced that the circumstances before you are absolutely inconsistent with my innocence, I have a claim to your verdict of acquittal? Am I not justified in presuming that you may have arrived at the conclusion that all the circumstances stated might be true, and yet I be innocent? I am sure, gentlemen, you will banish from your minds any prejudice which may have been excited against me, and act upon the principle that every man is to be deemed innocent until he is proved guilty. Judge of my case, gentlemen, with mature consideration, and remember that my existence depends upon your breath. If you bring in a verdict of guilty, the law afterwards allows no mercy. If upon a due consideration of all the circumstances you shall have a doubt, the law orders, and your own consciences will teach you, to give me the benefit of it. Cut me not off in the midst of my days. I implore you, gentlemen, to give my case your utmost attention. I ask not so much for myself as for those respectable parents whose name I bear, and who must suffer in my fate. I ask it for the sake of that home which will be rendered cheerless and desolate by my death. Gentlemen, I am incapable of any dishonourable action. Those who know me best know that I am utterly incapable of an unjust and dishonourable action, much less of the horrid crime with which I am now charged. There is not, I think, one in this Court who does not think me innocent of the charge. If there be, to him or them I say, in the language of the Apostle, "Would to God ye were altogether such as I am, save these bonds."

Gentlemen, I have now done. I look with confidence to your decision. I hope your verdict this day will be such as you may ever after be able to think upon with a composed conscience, and that you will also reflect upon the solemn declaration which I now make—So help me God, I am innocent!

Mr. Justice Park—Joseph Hunt, it is now your time, as your counsel cannot address the jury on your behalf, to say what you think proper in your defence; but before you begin the purposes of justice require that the witnesses for the other prisoner should be heard first.

Evidence for the Prisoner Thurtell.

S. Wadeson

Samuel Wadeson, examined by Mr. Andrews—I am a solicitor. In the course of my profession I became acquainted with Probert when he became a bankrupt. I was the solicitor

for the creditors. There were several meetings and examinations. From what I then saw and knew of Probert I would not believe him on his oath unless his testimony was supported by other and credible evidence. S. Wadeson

Langdon Haydon, examined by Mr. Platt—I am a land surveyor. I have known John Thurtell for some years. The impression on my mind, from my knowledge of him, is that he is humane, kind, and good-hearted. L. Haydon

By Mr. Justice Park—When was your last intercourse with him?—I have not ceased to know and see him. I have met him frequently.

Captain John M'Kinlay, examined by Mr. Andrews—I am a captain in the Royal Navy. I am one of the captains in Greenwich Hospital. I have known John Thurtell. He served under me. He was under my command from 1812 to 1814. I was then captain of the "Bellona," He always acted with correctness as an officer. I found him correct, humane, and liberal. Captain John M'Kinlay

By Mr. Justice Park—I have known nothing of him since 1814.

Joseph Walmsley, examined by Mr. Chitty—I have known John Thurtell for the last thirteen or fourteen years. During that time I always considered him a humane, well-disposed man. J. Walmsley

Evidence for the Prisoner Thurtell closed.

Joseph Hunt—My lord, I have a defence to make, but from extreme anxiety of mind I do not feel myself competent to read it.

Mr. Justice Park—Let the officer of the Court read it.

Defence by the Prisoner Hunt.

My lord, having under a positive assurance that I should be admitted a witness for the Crown made a full and true confession of all the facts within my knowledge respecting this horrible and melancholy event, and having implicitly relied on the good faith of the magistrates for the due performance of their solemn promises, made previously and subsequent to my disclosure, I forbore to make the slightest preparation for my defence;

Joseph Hunt and, after your lordship shall be made acquainted with all the circumstances under which that confession was drawn from me, your lordship's feeling and compassionate heart will be able to appreciate, although I am unable to describe the painful emotions of surprise and disappointment by which I was overwhelmed, when, only a few days before the assizes, it was notified to me for the first time that I was to be placed in my present perilous and awful situation.

Your lordship will perceive that the very circumstances which I was told would procure me forgiveness and ensure my safety has alone rendered me amenable to the laws, namely, my own disclosure and declarations; for, although the prosecutors may not offer my confession in evidence, yet, as that confession has been published in every newspaper in the kingdom, and has been circulated in many thousand pamphlets, and been the subject of universal conversation, is it probable, or even possible, that any of the gentlemen who are now sitting in judgment on my case can be ignorant that such a confession has been made? How futile, then, and unavailing would be any observations or arguments to raise a presumption of the innocence of a man who already, to a certain extent, stands self-condemned? Feeling myself in this dilemma, I shall abstain from troubling your lordship with any detail of facts or observations upon the main question involved in the indictment, but merely assert that I was not present when the unfortunate deceased lost his life, and that I was ignorant of any premeditated plan or intention to destroy him; I never knew of the murder until after it was committed; my crime consists solely in concealment, and my discovery could not bring the dead to life; my error arises, not from any guilt of my own, but from my concealment of the guilt of others. I am now on my trial for having been privy to the previous design. I never was; I certainly concealed it afterwards sooner than betray the misfortune which had been confided to me. Your lordship, however, will, I am sure, tell the gentlemen of the jury that no concealment or conduct of mine after the death will make out the present charge; and I hope both your lordship and these gentlemen are too just and merciful to convict me from prejudice, and not from proof.

I now, my lord, most respectfully solicit your humane attention to the following statement:—

On the morning of Wednesday, the 29th October, I was apprehended in London, and directly conveyed to Watford, where an investigation was going on respecting the then supposed murder of Mr. Weare. On my arrival I found several

Joseph Hunt.

After a pencil sketch by William Mulready, R.A.

magistrates assembled, and Mr. Noel, who was apparently conducting the prosecution, addressed me as follows:—"Mr. Hunt, for God's sake, tell the magistrates whatever you know of this murder, and in all probability you will be admitted as an evidence. It is clear that Mr. Weare has been murdered, and we only want to find where the body is, and if you know, for God's sake tell us." I repeatedly denied all knowledge of the circumstance, and Mr. Noel as frequently importuned and urged me to confess. Joseph Hunt

At last the magistrates said, "Mr. Hunt, you had better retire and consider the offer made to you, and recollect your perilous situation." I was then conveyed into another room, and was presently followed by Mr. Noel, who, in the presence of Ruthven and Upson, repeatedly told me that if I would tell where the body was, provided I did not actually commit the murder, I should be admitted as an evidence, and my life would be spared; and added that the magistrates had authorised him to make a pledge to this effect. Still, however, I was firm in my denial, and continued so until Upson, the officer, tortured my feelings by the mention of my family. He said to me, "Hunt, you have a mother?" I answered, "Yes, I have." "And a wife also?" I said, "Yes." "And you love them dearly?" I answered, "Yes, very dearly." Then said he, "For their sakes do not risk suffering an ignominious death, but tell where the body is, and give your evidence immediately, or you may be too late; for Probert or the other will disclose, and then nothing can save you."

This address had a great effect upon me, and Noel perceiving it again pressed me, saying, "Do not hesitate, for you have now a chance; consider the situation you are in, and avail yourself of the offer now made to you, for I am authorised by the magistrates to say that you will be admitted as an evidence for the Crown, and not treated as the others. You will merely be confined until the trial to give your evidence and then discharged." On receiving this assurance I consented to become a witness, and Mr. Noel then asked me if I knew where the body was? I told him yes; that I could not describe the place by name, but I could point it out, on which Mr. Noel struck his hand on the table, and exclaimed, "That's all we want," and shaking me by the hand, said, "Hunt, I am very glad to have saved your own life."

We now returned into the room where the magistrates were, and Mr. Noel told them I was ready to make a disclosure, and said, "I have made known to him, by your orders, that if he

Joseph Hunt discovers where the body is he is to be admitted as an evidence; but before he says anything I wish him to have that assurance in your presence that he may be satisfied from yourselves that I was authorised to make the promise." The magistrates, Mr. Clutterbuck and Mr. Mason, replied that Mr. Noel had their authority for what he had done, and then Mr. Noel said, "Now, Mr. Hunt, having heard the magistrates' decision as to your being a witness, I hope you are satisfied, and I beg you will take a seat and tell us all you know." I then detailed everything that occurred to my recollection, but having been apprehended early on the preceding day, conveyed into the country, and harassed and importuned throughout the night, it could hardly be expected that I should, at four or five o'clock in the morning, in making a very long statement, recollect every circumstance; indeed, the magistrates were aware that such could not be the case, and they told me that as in the hurry and confusion of the moment I had no doubt omitted many facts that I should afterwards on reflection recollect, if such should be a case, I had only to address a letter to the magistrates, and they would immediately attend to it.

Shortly after quitting the room several particulars came to my recollection which I had not named, and I directly sent for Mr. Noel and mentioned them to him. At nine o'clock the same morning I went with the officers and pointed out the spot where the body had been deposited. I was then taken back to the magistrates to sign my statement, and previous to my being taken to prison Mr. Clutterbuck desired that I should be treated with kindness, and not put under any unnecessary restraint. I was accordingly conveyed to St. Albans, without being ironed or handcuffed, and was there treated with every possible indulgence.

On being taken before the coroner I experienced very different treatment, but still I had no intimation given me that I was not to be admitted as a witness for the Crown until just before the present indictment was found.

It is perfectly true that when before the coroner I was admonished to make no further confession, but the admonition was a mockery. I had already, under a solemn promise, confessed everything material, and the coroner himself, when he thus affected to forewarn me, well knew that he and his jury were that instant sitting in inquest on the body solely in consequence of my disclosures; no jury could have sat—no death could have been proved—no body could have been found—no trial could have been had but for my instrumentality.

Defence by the Prisoner Hunt.

I was trepanned into a confession by the plighted faith of the magistracy of this county. If they break it now they will not merely make me the victim for its violation, but they will be answerable to society for every future crime against the discovery of which their conduct will be an eternal admonition. Who can confide in promises hereafter? Who can rest his life on magisterial assurances? To no human being can they ever pledge themselves more sacredly than to me; yet here I stand to-day a proof of their insincerity; nay, more than this, not only have they broken faith and violated honour, but while the Press was unceasing in the excitement of prejudice—while the theatre and the painter were employed in poisoning the public mind—while every engine was at work to diminish the chances of an impartial trial, these very men, who had thus ensnared me by perfidious declarations, closed their prison door against friends and legal advisers, and opened them only to the mandate of the King's Bench.

Thus was I first ensnared, and afterwards sought to be sacrificed. Seduced into a confession, which was trumpeted through the world, and then cruelly secluded until the time arrived when I was to suffer—not for my crime, but my credulity; not because I erred, but because I trusted; not because I violated the law, but because I confided in the conscience of its ministers. It is in vain to say that my confession was not complete; it was as ample as could have been expected at the moment from an exhausted frame and an agitated mind. It was subsequently amended where it was at first deficient; and no sophistry can evade the fact that through that confession alone the body was discovered. Thus, then, the main circumstance, that on which everything turned, was disclosed at once; and it is absurd to attribute to aught but momentary confusion any minor concealment, when the great, essential, and indispensable development had taken place.

As a proof that even the coroner himself considered my confession so ample as to ensure my pardon, and that in his mind, notwithstanding his admonition, the promise of the magistracy ought to be held inviolate, hear his own words to Mr. Nicholls, one of the witnesses examined—"The consequence of your delay has been the escape of Hunt from justice; for he has been admitted a witness for the Crown by the magistrates, as they were afraid the body was disposed of." Now, what did these words mean if the coroner was not fully convinced that I had merited and ensured my pardon?

The prosecutors, my lord, may affect to say that as they

Joseph Hunt refuse to grant me the boon promised for the disclosure, they will decline using, or taking any advantage of, the confession, and I humbly submit that such a line of conduct would be alone consistent with justice and fair dealing; for if they retract their engagement, they ought not to place me in a worse situation than I was in at the first moment, when, confiding in their integrity, I unbosomed the secret. If the prosecutors act with liberality, and forbear to offer a tittle of evidence respecting the body, and, in conducting the case, consider it as still undiscovered, I can have no cause to complain of plighted faith and broken promises, because your lordship need not be reminded that it has been laid down as a principle that no death can be considered as proved unless the body be found, and, consequently, in this case, no conviction can take place. But if witnesses are produced to prove the finding of the body, can it be said that my confession has not been taken advantage of? and will not the prosecutors be taunting me by an affectation of candour if they take credit for not giving in evidence any declaration made by me, while they avail themselves of the very essence and substance of the communication?

In confirmation of the promises made to me by the magistrates and Mr. Noel, I beg to refer to a statement which the latter gentleman has published in the newspapers, wherein he says—"It is now incumbent on me to state the reasons for the offer of mercy held out to Hunt," and then he thus proceeds—"Notwithstanding the most diligent searches for the body, no discovery had been made of it as late as four o'clock past midnight of Thursday morning, the 30th of October, the sixth day after the murder, and at that hour the informations and investigations had terminated with no clue whatever to the real person murdered." Mr. Noel next describes his invitations to me to make a disclosure, with a view to my being admitted as an approver; his desiring me to retire to consider of his proposal; and after I had left the room, he says he addressed the magistrates as follows:—"Gentlemen, if you do not approve of the offer of mercy held out to Hunt, say so, and I will go to him. Recollect, without the body is found, notwithstanding the strong evidence against one of the parties, we shall do nothing, and Mr. Clutterbuck and Mr. Mason both gave unqualified approbation to my mode of examination, and of the offer of mercy held out to Hunt."

And in another part of Mr. Noel's statement he says—"Not only at Watford, but at the inquest, it was the general opinion of Mr. Mason and the magistrates that the body might have

remained concealed in Hill's Slough, the place where it was found (a distance of 3½ miles from the spot where the murder was committed), until it had been decomposed, and beyond the possibility of identifying; and such was the insignificance of the slough that persons employed to drag all pits, ponds, &c., would have passed by it, and therefore they were confirmed in their opinion as to the policy and propriety of sanctioning my offer of mercy to Hunt; and previous to the offer being made, it was our united opinion that the corpse had been removed to London, and probably thrown into the Thames either entire or piecemeal." Joseph Hunt

In addition to this statement Mr. Noel inserts a letter from Mr. Clutterbuck to himself, in which the magistrate observes that as my case was then gone out of the hands of the magistrates, all that could be done for me was to ask the Court whether they would allow me to be evidence for the Crown.

Having now, my lord, faithfully stated the inducements by which I was led to make that disclosure which alone rendered myself and my fellow-prisoners amenable to justice, I respectfully submit to your lordship whether, in being now put upon my trial, and made the victim of my own credulity, I have been fairly and candidly dealt with? I will not, my lord, attempt to point out or discuss the mischiefs likely to arise if such engagements as were entered into with me are to be cancelled at pleasure, because they will occur much more forcibly to your lordship's enlightened mind; indeed, so far as I am individually concerned, my fate is a subject of trifling importance. I have no desire to prolong a wretched existence, unless it be to afford the opportunity of endeavouring by prayer and penitence to obtain mercy and forgiveness of the Almighty for the sins and transgressions I have committed. But in pity to the feelings of an aged and respectable mother, a virtuous and amiable wife, and my dearly beloved brother and sister, I do feel most anxious to avoid an ignominious death; and it is therefore for their sakes, more than for my own, that I fervently and earnestly entreat the performance of the solemn pledge made to me of sparing my life. I have nothing further to add, but most humbly repose my fate to the justice and humanity of your lordship.

This paper having been read by the clerk, the prisoner Hunt said—My lord, I wish to add another observation, and proceeded to read from a written paper as follows:—The greatest part of Probert's evidence is false, and particularly where he endeavours to screen himself and save his own life by inventing

Joseph Hunt

falsehoods to destroy mine. One circumstance which he stated must evidently be false, I mean where he pretends to point out the place at which he says I wished to be put down. I was never in that place in my life, and how is it possible that he could be acquainted with the place, especially as it was very intricate, and the light extremely bad?

[The prisoner Hunt called no witnesses in his defence.]

Charge to the Jury.

Mr. Justice Park

Mr. Justice Park—Gentlemen of the jury, this important case has justly occupied a very considerable portion of our time and labour. It is a case of the deepest importance, both to the prisoners at the bar and to the public. The prisoners are indicted in the following manner:—John Thurtell, as the principal felon, or the man who committed the murder; the other, as having aided, stirred up, moved, abetted, procured, commanded, hired, consulted, and directed John Thurtell in the prosecution of the murder, or, in legal language, as having been an accessory before the fact. It has been properly said that, if the prisoner, Joseph Hunt, were only guilty of concealment of the murder after the death of the deceased, though he would be a wicked and a despicable character, still he would be only what is termed in law an accessory after the fact, and not an accessory before the fact, and he cannot be convicted under this indictment.

This question, like all questions of inquiry into the death of man, is of the greatest public importance; for the law of England deems so highly of human life that every killing of another is held to be murder, unless the person accused can prove such circumstances of alleviation as to reduce the offence from murder to manslaughter, or of justification, as to show it to be no illegal killing at all. In the present case the question does not turn on that point at all. The single question in this case is whether the prisoner John Thurtell committed the fact, because it is not pretended that, if he killed the deceased, the act could be extenuated or justified, and the defence of the prisoner is that he did not commit the fact; if he did not commit the fact, all further inquiry, gentlemen, is unnecessary.

There is a distinction between the cases of the two prisoners, although there is no distinction as to the legal consequences of the offence with which they are charged, because an accessory

before the fact is by positive statute placed on the same footing with respect to punishment as the actual perpetrator of the murder. There is, however, this distinction between the cases of the two prisoners, that, if you should think the evidence not sufficient to affect John Thurtell, you need not trouble yourselves with any further inquiry as to Joseph Hunt; for as Joseph Hunt is only indicted for having aided and counselled John Thurtell in the murder with which he is charged, if you are of opinion that John Thurtell did not commit it, you cannot, of course, find Joseph Hunt guilty of aiding and counselling him. There is also this difference in their cases, that, though you should be of opinion that John Thurtell is guilty of the murder, it does not necessarily follow that the other is guilty of aiding and counselling him; for this must depend on distinct and independent proof. Mr. Justice Park

I have endeavoured to explain these distinctions to you with as much clearness as possible, and I trust I have succeeded in making myself understood. There are some circumstances, however, and especially the defence of the prisoner Thurtell, which I wish to notice before I go into the evidence, which it is my intention to do most minutely, and, at the same time, as far as my judgment goes, to give you my opinion on every point. Gentlemen, the greater part of what was said by John Thurtell in his defence did him great credit. I must except, indeed, some part of what he said, but I allude particularly to his observations at the commencement and the close of his defence. This part of his defence, which I take to be his own, did him great credit. It was manly, energetic, and proper. I cannot help saying, however (although everybody who knows me knows that I never go out of my way to say anything harsh or severe of anybody), that I did not admire the judgment of those who advised him to introduce the middle part of his address. If the first and last part of his address had any effect —and it could not fail to have an effect upon every sensible mind—that effect must have been weakened by the dreadfully long quotations which he was advised to introduce from such books as the "Percy Anecdotes" and "Newgate Calendar," which, for anything I know to the contrary, may be mere books of romance. In the opinion quoted from the immortal writings of Lord Hale I fully concur, and I have myself acted upon it since I last had the pleasure of meeting you in this Court. In fact, no judge who knew anything about his profession ever doubted about the opinion to which I allude, namely, that, before a man can be convicted of murder, it is necessary to prove

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that the person whose death is laid to his charge is in point of fact a dead man.

The opinion quoted from the immortal writings of Lord Hale could receive no additional weight from the farrago which was put into the prisoner's hands. I do not blame the prisoner for this, but the persons who counselled and advised him to take such a course. With respect to the observations which were addressed to you on the subject of circumstantial evidence: if the doctrine for which the prisoner was advised to contend were carried to its full extent, there would be an end to the judicature of man. The eye of Omniscience can alone see the truth in all cases; circumstantial evidence is then, probably, out of the question, but, clothed as we are with the infirmities of human nature, how are we to get at the truth without a concatenation of circumstances?

Though in human judicature, imperfect as it must necessarily be, it sometimes happens, perhaps, in the course of one hundred years that, in a few solitary instances, owing to the minute and curious circumstances which sometimes envelop human transactions, error has been committed from a reliance on circumstantial evidence, yet this species of evidence, in the opinion of all who are most conversant with the administration of justice and most skilled in judicial proceedings, is much more satisfactory than the testimony of a single individual who swears that he has seen a fact committed.

With respect to the man Probert, I think it necessary to declare at the outset that a more infamous character never presented himself in a Court of justice. The testimony of the respectable solicitor who declared that he would not believe Probert upon his oath unless, as he judiciously added, confirmed by other evidence, does not make Probert half so infamous as his own testimony has made himself, since it is more wicked to conceal the death of a murdered friend than to have committed perjury before the Commissioners of Bankruptcy. I will assume what was said by Thurtell in his defence, that such a man as Probert might have a bad motive for charging him with the crime, but this very circumstance ought to make us more comfortable under the necessity which is imposed upon us of resorting to circumstantial evidence. Probert and one or two more bad men might have entered into a conspiracy, but it is impossible that the fifty-three individuals who were witnesses in this indictment, many of whom never heard of Thurtell or knew anything of his person, should have entered into a conspiracy to bring the charge home to the

prisoner at the bar. If, therefore, circumstantial evidence was ever useful, it must be eminently so in a case like the present. Mr. Justice Park

It has been said that circumstantial evidence should always be received with doubt; it ought undoubtedly to be received with caution, and so, indeed, should all human testimony. Why are you gentlemen and myself placed in the situation which we now fill, but to use all the faculties which God has given us to prevent the punishment of innocence and effect the detection of guilt? You are not to reject circumstantial any more than direct testimony, and I doubt not that you will weigh all the evidence which has been submitted to you, and so pronounce upon it, as well as satisfy your own consciences as just, honourable, and religious men.

Another most distressing circumstance in this case is the prejudice which has been raised against the prisoners through the Press, of which they have both complained, and which nobody can gainsay. It is quite painful to one's feelings to think of it. I said just now, and I repeat it, that everybody who knows me knows that I never go out of my way to say a harsh word of any human being; but I should consider myself unworthy of the seat I occupy—I should think myself open to impeachment, if I did not, whenever my duty called upon me, fearlessly and manfully discharge that duty. I hope I care not for the face of man, whether high or low. The whole artillery of libel shall never for a moment induce me to depart from what I conscientiously consider to be the line of my duty. The prisoners have been obliged in their defence to press this point on your attention; they have been compelled to appeal to you, to warn you, to beseech you, if ever you have heard or read any accounts of this painful and melancholy transaction, to dismiss them from your minds, as you would a pestilence. It is these statements of evidence before trial which corrupt the purity of the administration of justice in its source, and, if they are not checked, I tremble for the fate of our country.

It is the boast, and justly the boast, of the constitution of this country that an important part of the administration of its justice is placed in such hands as yours. You have called God to witness that, as you do justice between the King and the prisoners at the bar, so you will answer to your God, and call upon Him for help; but how can you adequately discharge this solemn duty if your minds have been previously poisoned by the publication of what is, in fact, no evidence at all? If it be true, of which, however, I personally know nothing, that a supposed confession of Hunt has been published and read in all

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the public papers—if this be true, can anything be conceived which is calculated to have a more dreadful effect on the administration of justice? Here is a confession published as coming from the mouth of one of the prisoners, and purporting to be a solemn declaration of the facts, which confession has not been even tendered to me by the counsel for the Crown, and which, if it had been tendered, I should have rejected. Is the public mind to be poisoned by the publication of what the judicial authorities of the country cannot consider as admissible in evidence? It is certainly a most grievous circumstance. It has thrown a great deal of additional labour upon me by bringing me here a second time to try this case; but my regard for justice induces me to waive that consideration. I did not think it fair, after hearing the affidavit which was read in Court, to put the prisoners upon their trial, and I have the satisfaction of knowing that the course which I adopted has received the sanction of my brethren, whom I have since consulted. I have no doubt, from what I have seen and known of some of you, that no newspaper publications, no lampoons, libels, or calumnies will have the least effect on your minds, either for or against the prisoners, and that you will do your duty as you ought, and as you are to answer for it to God. I have thought it necessary, gentlemen, to make some observations on the point which was urged by one of the prisoners as to the effect of circumstantial evidence.

There was another point urged by the other prisoner which has already been the subject of a motion made before me, and which is entitled to more consideration. No argument has been urged in the written defence of the prisoner Hunt which was not as ably enforced by his counsel in the motion to which I allude; but I have already stated that there was no valid ground which could induce me to put off the trial to give time for an application to the Crown. The prisoner had a whole month during which he might have made an application to the Crown; and, however powerful the arguments which might be urged as a ground for such an application, I could not consistently with my duty act upon them. If the confession of the prisoner were made under such circumstances as have been stated by his counsel, and it had been tendered to me in evidence, I should have rejected it immediately. I could not, and would not, have received it. I excuse the prisoner for any erroneous notion he may entertain upon a point of law, but he has competent legal advisers, and those advisers know well enough that a confession obtained by saying to the party,

"You had better confess, or it will be worse for you if you do not confess," is not legal evidence. But though such a confession is not legal evidence, it is everyday practice that if, in the course of such a confession, the party state where stolen goods or a body may be found, and they are found accordingly, this is evidence, because the fact of finding proves the truth of the allegation, and his evidence in this respect is not vitiated by the hopes or threats which may have been held out to him. This part of the statement which Hunt is said to have made would have been legal evidence; and no greater hardship, therefore, is suffered by the young man than by every man who has been heretofore tried. The objection which has been made is one of which neither you nor I can take notice. It is a matter which rests with a higher authority than mine, high as mine is in this particular situation. I have no power to entertain it, I am bound, therefore, to submit his case to you, and for your decision. Mr. Justice Park

The main body of this charge rests upon the testimony of Probert and his wife, and it is necessary, therefore, that I should clearly point out to you what the law of England is on the subject of accomplices. When an accomplice is put into the box to prove any facts, he charges himself with the same crime, be it robbery or be it murder. In the latter, he is undoubtedly a murderer in a moral point of view, but, as an accessory after the fact, he would be entitled to the benefit of clergy. By the law of England, gentlemen, an accomplice is a competent witness. When such a witness is presented, it is for the judge to decide upon his competency, and the jury are to consider the degree of credibility to which he is entitled. In the present instance, I admitted, I was bound to admit Probert as a competent witness; but I call upon you—I advise you (and in doing this I only follow what has been done by other judges) not to credit one word of his evidence unless you find his testimony corroborated upon the main facts of the case. I do not say it is necessary that he should be corroborated upon every statement; for, gentlemen, in such transactions there are generally some facts which are known only to the perpetrators, and cannot be got save through the medium of an accomplice; it is on this ground, and on this ground only, that the law makes an accomplice a competent witness. If, therefore, you find Probert corroborated upon the main points by credible witnesses, it is my duty to tell you that you are bound to give credit to his testimony.

The prisoner Thurtell has, in the course of his defence,

Mr. Justice Park. made some very sensible and proper observations upon the evidence, and to which I also accede; but I cannot accede to the assertion that because you find Probert to be a bad character you are therefore bound to discredit his testimony altogether. Mr. Wadeson has told you, and I think in telling you so he has given a very fair definition of the law on the case, that he would not believe Probert upon his oath unless his evidence was corroborated by respectable testimony.

It is of deep importance to the well-being of society that the evidence of accomplices should be received upon certain occasions, otherwise many a dark and criminal deed would go unpunished. When evil-minded men confederate together for criminal purposes, we always find that their friendship is hollow and of short duration. Their confederacy is a confederacy of vice, and the moment danger approaches each seeks his own safety, reckless of the fate of his companions. Gentlemen, it is well for society that it is so, otherwise it would be difficult to check their course of iniquity.

It appears from the affidavit of Hunt himself that he was acquainted with the facts, and that in consequence of the advice of an attorney, who seems to have acted a most unwarrantable and unjustifiable part upon this occasion, he ran to tender his evidence to the magistrates, as if from a fear that some one else would be before him. I said before, and I now repeat the assertion, that the magistrates have no power to enter into or make any such compact with an accused person, and the attorney must be grossly ignorant of the law if he so advised his client. It is for the counsel for the Crown to apply to the Court to have an accomplice admitted as evidence, and this application they make upon a pledge of their own characters, as the judge can of himself know nothing of the facts. Besides, it appears that the depositions of Hunt were not taken before the magistrates upon oath, but only by word of mouth; and, therefore, it is clear that he was not accepted by them as a witness for the Crown. But even had his depositions been taken upon oath, it would still remain for the judge to decide upon the propriety of admitting him as an evidence for the Crown. The first witness called was a man named Beeson.

[Here the learned judge proceeded to read the evidence of the first witness, after which he pointed out to the jury a plan of the ground, the roads, the ponds, &c.]

Gentlemen, you were told that a body was found in a pond; and here I feel it necessary to refer to the inference in law, as laid down by my Lord Hale, whose steps I have ever humbly endeavoured to follow, that unless the body be found, or the

fatal blow be seen to be given, it is impossible to support a charge of murder. Acting upon this principle, I once stopped a case in which a woman was charged with the murder of her infant child. It appeared that the body of a child had been found immersed in water at a distance from the house of the accused, and two months after the commission of the alleged crime. The body was a mass of corruption, no lineament of the human countenance could be distinguished, nor could the sex of the child be ascertained. In this case also I felt it necessary to have it proved that the body found was the body of Mr. Weare. This fact you will find proved by Rexworthy and the brother of the deceased. You have it also proved to you by the testimony of Mr. J. A. Ward, the surgeon, who gave his evidence in a manner highly creditable to him as a professional man and as a gentleman, that the wounds inflicted on the deceased were sufficient to cause death. Mr. Justice Park

In the indictment there are two counts, the first charging the prisoners with having caused the death of Mr. Weare by thrusting a pistol into his head; the second, with having caused his death by cutting his throat with a sharp instrument; so that if it be proved to you that the death was caused by the prisoners in the one way or in the other, they are equally guilty.

[The learned judge again proceeded to read the evidence at length.]

Gentlemen, we come to the grand question, namely, by whom was the murder committed? And here I feel it necessary to state that an accessory before the fact is equally guilty with the principals. You have it in evidence that Hunt was not present at the actual murder. It has been found in various cases that men of low degree generally flatter themselves that because their hand has not performed this or that criminal act, they, aiding and abetting, are guiltless of it. Never was there a more fallacious idea entertained; in point of morals it is wrong, and in point of law it is equally wrong; for if two or more persons set out to do a criminal act, and if the act be performed by one only, the accomplices are equally guilty with the principal; and it is laying a most flattering and unhappy unction to the soul to entertain a contrary opinion. I mention this in order to prevent persons from going away with a false impression.

[His lordship again proceeded to read the evidence, occasionally pointing out the corroboration by one witness of the evidence of the other upon material points.]

We now, gentlemen, come to the evidence of Probert, whom

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I wish you to consider as the basest of men, but whose testimony, if corroborated, you are bound to receive. The officer who arrested Thurtell says that he found a pistol and pistol screw in his coat pocket. Now, attend to the corroboration upon this point. The pawnbroker's boy, a disinterested witness, tells you that he sold that pistol and another like it, and a pistol screw, to the prisoner Thurtell and another, whom he described as a tall man and a short one, on the very day of the murder of Mr. Weare. He swears also to the other pistol found in Gill's Hill Lane, and having blood and hair upon it, and which perfectly corresponds with that found on Thurtell. On searching Hunt's lodgings, the officer found a backgammon board, cards, and dice, a double-barrelled gun, some shirts, boots, stockings, and other things, all of which have been fully proved to you to have been the property of the late Mr. Weare. This, gentlemen, is strong evidence to bring the prisoners Thurtell and Hunt together; and it is for you to consider whether the latter was not an accessory before the fact, and had not received these things as a *douceur* for the part which he took in the transaction. [His lordship went on reading other parts of Probert's evidence.] They went out, Probert says, under the pretence of going to Mr. Nicholls'. Mrs. Probert says they went out under the same pretence, and that they never went to him. Mr. Nicholls says they never went to him. Probert again said that they carried the lantern down the lane with them. The boy Addis so far confirms this that he says before they went out they asked for a lantern. Probert says that they had told him the next morning that they (Hunt and Thurtell) had been down the lane to look for the knife and pistol.

Now we find, if you believe the two men, Harrington and Hunt, who were working in the lane, that two persons did come down the lane at an early hour on the Saturday morning, one of whom wore a white and the other a black hat. Harrington, it is to be observed, only swears to the person of one of these individuals, viz., the one with the white hat, who was, he says, the prisoner Thurtell. Thurtell, it is proved, however, had no white hat of his own, but Probert had one. Now, the question is whether Thurtell had this hat of Probert's? On this point a piece of evidence not immaterial is that of Susannah Woodruff, the cook maid, who, in the course of the evening, went into the parlour of the cottage and saw John Thurtell lying on the sofa with her master's hat on his head. Now, when it was proved that Thurtell and Hunt were searching about apparently for the pistol and knife, and that afterwards a pistol

and knife were found near the place where they had searched, the testimony of Hunt and Harrington becomes a very material piece of evidence, not in itself, but as corroborating and confirming the positive testimony of Probert. [After reading, in the evidence of Probert, to the part where Thurtell is represented to have produced the gold watch, the learned judge asked]—Is there a confirmation of this? According to Mrs. Probert, Thurtell produced the chain and gave it to her. Mrs. Probert, too, it must be remarked, is perfectly admissible as a witness, for her husband is not included in the charge against the prisoners at the bar. Even if he had not been acquitted, I may remark, she would not have been inadmissible as an incompetent or infamous witness, but she would not have been examined on account of that wise and humane provision of the law of England, which, for the strengthening and rendering sacred the domestic ties, would not allow the evidence of a wife to be taken as a charge against her husband. Mrs. Probert, therefore, is now perfectly admissible, and not otherwise incredible, or to be distrusted, than on that account which the prisoner Thurtell very properly gave weight to in his address, viz., the consideration that she so long kept a chain which she must have suspected to have been obtained by the medium of a crime. But what the nature or strength of this suspicion was, it is not for us to say; to say that she could have suspected such a crime as murder to have been committed would be to go further than humanity or justice will warrant us. Thurtell, she says, gave it her, and Miss Noyes says he put the chain round her neck. Respecting the watch, too, which is mentioned by Probert, there is, in confirmation, the evidence of Upson and Foster. Thurtell, Upson tells us, said to him that he threw away the watch over the palings, beyond Watford, in a place where there was some grass, to get rid of it. To Foster he said that Hunt was a rascal for so "nosing" him; that he would on no account have done so to him; and, among other things, that he had offered the watch for sale. In this particular, therefore, Probert is confirmed by these witnesses. Mr. Justice Park

Here I have been unwillingly drawn into the mention of a conversation affecting Hunt. It has been very properly said by Mr. Thesiger that this conversation which passed between the prisoner Thurtell and others, not in the presence of Hunt, should not be permitted to make any impression against Hunt. I therefore mention it only as it corroborates the testimony of Probert respecting Thurtell. [The learned judge then read the part of the testimony of Probert, in which are detailed the

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circumstances of the murder, and where Thurtell is represented to have said, "When I first shot him he jumped out of the gig, and ran like the devil, singing out that if I would spare his life he would deliver all he had won."] He (witness) remarked, "singing out" is a maritime term. I asked at the time whether Thurtell had not been in the Navy. It subsequently appeared, from the testimony of Captain M'Kinlay, that he had. The use of this term is a circumstance very fit to be taken into consideration as confirmatory of the evidence.* It appears from this part of the testimony of Probert. And here this brings us to the consideration of the motives of the crime.

In the case of all atrocious crimes, one is naturally anxious to find a motive for the guilt. It appears from this part of the testimony that there had been previously gambling transactions between the prisoner Thurtell and the deceased. The crime, therefore, if it was committed, may have had its origin in that dreadful vice of gambling, which the prisoner Thurtell, in his address to you, has so properly marked with reprobation; a vice which deadens all the good feelings of our nature, which leads to the commission of crimes we should not otherwise have dreamed of, and I hope the dreadful events which have been brought before you will be a lesson, if any such be needed, to our nobility and gentry, if it be true, as he has said, that a large proportion of them has set him an example of an attachment to this baneful vice. Yes, I trust that the business of this day, whatever way it ends, will be as effectual as it is a dreadful warning against practices which lead to consequences so fatal to the peace of society. [The learned judge then remarked that the appearance of the pistol corroborated Probert's evidence of the manner of the murder. In reading the passage where the phrase "that is your share of the blunt" occurs, the learned judge observed, "blunt" is a cant phrase which, happily, I do not understand. As to the carpet-bag and gun, he observed, these were proved both by the man and woman servants to have been at the cottage. They were also proved to have been the property of Weare. It became the jury then to ask themselves how they could have been brought here, except on the supposition of Thurtell's guilt. If, indeed, they believed Probert to have been the man, he might have brought them there, but of that they would judge from the rest of the evidence.]

The prisoner Thurtell—My lord, the double-barrelled gun

* The word "evidence" is probably used by the judge in the now obsolete sense of "The King's evidence, *i.e.*, Probert.

that I carried down to Probert's cottage was sold by auction at the levy. I beg your lordship's pardon, but this was omitted by accident in my case. Mr. Justice Park

Mr. Justice Park—If you have overlooked evidence which you have now present to produce, I will hear it. If you mean that you have omitted to make a statement in your address to the jury I will make it for you with pleasure, and the jury will judge what weight is to be attributed to it, though they will recollect that a prisoner's statement is not to be taken as conclusive evidence of the fact.

[Mr. Justice Park proceeded to read the evidence of Probert respecting the disposal of the body and effects.] On this point you have the confirmation of the wife, who overheard the whispering and the talking in the parlour, and saw something dragged from the stable along the garden towards the pond.

The prisoner Thurtell here stated that the under-sheriff could prove that the double-barrelled gun had been sold.

Mr. Hawkins, one of the under-sheriffs, was then called and examined by the prisoner Thurtell.

I ask you, sir, whether my gun was not sold among Probert's effects?—Certainly there was a double-barrelled gun sold under an execution levied on Mr. Probert's goods. Whether that gun belonged to you or not, I cannot say. We supposed it to be the property of Mr. Probert.

Mr. Justice Park—Of course you did, or else you would not have sold it. I am ready to listen to any suggestion of the prisoner's, but the fact he brings forward proves nothing; the identity of the gun is completely proved. It came with Thurtell in his carriage, and went away with him, according to the testimony of the servant boy. That could not have been the gun sold as the gun of Probert. The learned judge then proceeded to read the rest of the evidence of Probert, in which he was confirmed by the testimony of Thomas Thurtell, who spoke to the change in the dress and appearance of Hunt; by Mr. Nicholls, who spoke of the visit made to him; by Richard Addis, the servant boy, who said that he was sent to London without having any business to do there—a statement which agreed with Probert's testimony that he was sent there to be out of the way. The testimony of Probert, that the body was first put into one sack and subsequently taken out of that and put into another, was corroborated by the testimony of Anne Woodruff, the servant maid, who saw a wet sack hanging up in the chaise-house. In his cross-examination Probert said that up to the day when he went before the grand jury he had said to Mr.

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Franklin, the chaplain, that both he and Hunt were innocent of the murder. This might be said to be inconsistent with his present testimony; but it was not inconsistent with the notions which persons like him not unfrequently entertained. He may have considered, however unwarrantably, that a person was not guilty of a murder when his hand was not used in the perpetration of it.

Mr. Franklin, I believe, is a clergyman of the highest respectability, and one of the prisoners had to-day spoken in terms of gratitude of his attention to his duties. But I may remark that conversations of this kind should not be lightly talked of, perhaps not mentioned, unless the individual to whom the communication is made be called on to give evidence. The law of England, indeed, recognises no inviolable confidence as reposed in clergymen, except, perhaps, in cases of priests of the Roman Catholic religion; and I am not quite sure how far the obligations of those priests to preserve the secrets confessed to them might avail them in a Court of justice. But still I say the conversations held by prisoners with clergymen should not be lightly mentioned, as these unnecessary disclosures may tend to impair the efficiency of their useful exertions for the spiritual welfare of the persons entrusted to their care.

[The learned judge then read over, with a few observations, the evidence of Mrs. Probert, Thomas Noyes, Miss Noyes, and Thomas Thurtell.]

On the evidence of Miss Noyes, it is a material circumstance that she heard a gig pass the cottage between eight and nine o'clock. The jury may draw an inference as to what persons were probably then passing. She also stated, it is to be observed, that when Probert, Hunt, and Thurtell went out of the cottage on the Friday evening, they said that they were going to Mr. Nicholls'; that, when they returned, they said Mr. Nicholls was out, and that this last fact was contradicted by Mr. Nicholls himself. It is therefore necessarily to be inferred that they went out for some purpose which they wished to conceal.

In the evidence of Tetsall it is to be observed that Hunt, who had previously been in the habit of wearing long, large whiskers, had shaved them all off on Monday. It is for the consideration of the jury whether this fact should have any weight, though undoubtedly the fancy of a man in such a matter might suddenly change. Rexworthy's evidence was given as to the fact of Thurtell and the deceased having been at his house; and, as to the identity of the body of Weare, if much depended

on this part of the testimony, I should certainly feel some difficulty. The vocation of the witness is none of the most respectable. By his occupation he is a pander to base and avaricious passions, and from a conviction of the mischief in which he is an accomplice by his occupation, I should have no hesitation in making the harshest observations on anything questionable in his evidence. But his testimony as to the identity of the body is confirmed by the brother of the deceased, and by other evidence. There can, I think, be no doubt about it. The other facts to which he gives evidence are, I think, not material. Mr. Justice Park

Mrs. Maloney, the laundress, identified the wearing apparel and property of Mr. Weare. You will consider, gentlemen, how it is to be accounted for that those clothes on the table, which were the property of a gentleman in Lyon's Inn at three o'clock in the afternoon, should get down at nine or ten o'clock at night to a place in the county of Hertford? How could it be possible that these things should be in possession of John Thurtell without throwing on him a strong suspicion of guilt? It has often been said by me on other occasions, and by other judges continually, that the early possession of property that has been stolen throws on the party so possessing it the necessity of showing how he obtained it. It is not enough in such a case for him to assert his innocence; he should produce evidence to show in what manner he obtained that property. I will therefore not suppose at all that Mr. Weare went out of town with Mr. Thurtell; we know that he did go out of town, that he was never heard of, or, rather, never seen afterwards till he was found in a ditch, and that the property very soon after his having left town was seen 11 or 12 miles off in the possession of another. The hackney coachman who took Mr. Weare from Lyon's Inn says that he met a gentleman in the New Road, whom he took up into the coach with Weare. This gentleman was dressed in a long white greatcoat, but he cannot say that it was Thurtell. Whether it was Thurtell or not is not important.

When Hunt went to hire the gig, he informed the witness Shepherd that he was going to Dartford. This was a very material circumstance as affecting Hunt. Why was it, if he knew nothing of what was going on, that he gave this false account of the direction that he was about to take? Why should he not have said that he was going into Hertfordshire, instead of endeavouring to throw them on an entirely wrong scent?

The next witness, Stephen Marsh, stated a very important circumstance, and one very confirmatory of the testimony of Probert. He says that Hunt took a gig from Charing Cross,

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about half-past three on Monday, and returned about half-past two o'clock in the morning—a very unseasonable hour; that the gig and horse were very dirty, and that there was a little blood at the bottom of the gig. This agreed with the testimony of Probert, who said that in that interval the body was removed in that gig from the pond in Probert's garden to the pond where it was ultimately found. The evidence of Stephen Probatt, though not material in proof of the facts of the case, showed the shocking and depraved mind of Hunt. If the conduct attributed to Hunt consisted in mere idle declarations, I should pay as little attention to them as the prisoner's counsel seems inclined to do; but the acts which I am about to mention are such as cannot be so lightly spoken of.

[The learned judge then read from Probatt's evidence.]

The prisoner THURTELL—My lord, there is a fact in Field's evidence I wish to call your attention to. He says that Hunt was at his house on the Tuesday.

Mr. JUSTICE PARK—Yes, sir, but I am not going to read Field's evidence now; I have read it all before.

The prisoner THURTELL—But I wish, my lord, to point out a fact which escaped you, namely, that he saw Hunt there on the Tuesday alone.

[Mr. Justice Park then read Field's evidence.]

The prisoner THURTELL—I did not know before my counsel came down that what Hunt said to the prisoners could be admitted in evidence. There was a whole yard full of them to prove that he then told them that he planned the murder alone. It is with this view that I point the attention to the fact mentioned by Field.

Mr. JUSTICE PARK—You know that statements as to what witnesses could prove are of no use.

The prisoner THURTELL—There is another fact that I wish to mention to your lordship. Freeman spoke of a yellow gig.

Mr. JUSTICE PARK—I am not come to that yet.

The prisoner THURTELL—No, my lord, but I mention it now that I may not have to interrupt your lordship again. Freeman swore before the magistrates that it was a yellow gig which he saw. He also said it was a bay horse, which I omitted to state. I wish your lordship to look at the depositions before the magistrates.

[Mr. Justice Park looked at the depositions.]

The prisoner THURTELL—It is not the coroner's depositions, my lord, that I mean.

Charge to the Jury.

Mr. Justice Park—No, sir, it is not that I am looking at.* (*To the Jury*)—I have asked the prisoner's counsel what it is the prisoner means, as he is certainly entitled to any inference that can be drawn from the facts proved in evidence. It is stated by Field that Hunt was at his house on the Tuesday alone, and the prisoner wishes it to be inferred that Hunt came there to throw the body into the pond alone. It is for you to consider what weight this inference is entitled to. Mr. Justice Park

[At this time Mr. Hawkins, one of the under-sheriffs, signified that the sheriff's officer, who had levied the goods at Probert's cottage, was present, and could speak about the double-barrelled gun.]

Isaac Pye, a sheriff's officer, was sworn. He only said, however, that a double-barrelled gun was levied in execution, which he heard from Mr. Wardle was Thurtell's.

Mr. Justice Park then proceeded with the rest of the evidence, and, in summing up the testimony of James Freeman, he said he had looked at the depositions before the magistrates according to the suggestion of the prisoner, and found that not one word was said either about the colour of the gig or the horse.

The prisoner Thurtell suggested that the wife of Freeman had spoken before the magistrates of the colour of the gig or horse.

Mr. Justice Park—Freeman's wife has not been examined here. It is of no use to rebut evidence that has not been called. I will not mention irregularities in such a case; they are not worthy of being mentioned where a matter so important to individuals and society is at issue. But there is not a word of such a thing as you mention in the deposition of Freeman. [The learned judge briefly stated the substance of the remaining evidence. On the evidence of John Fleet being read.]

The prisoner Thurtell—The coat taken from my lodgings at the Haymarket by Hunt was a blue coat. It is in the prison here. By omission it was not proved.

Mr. Justice Park—Gentlemen of the jury, I have now gone through the whole of this evidence, and I am not conscious that I have omitted any fact which can bear on the case of the prisoners one way or another. We shall have this satisfaction in the duty that we perform, that notwithstanding the attempts to prevent it, we shall discharge it with dispassionateness and

* The manuscript depositions are not extant; but several of the best reports agree that at the Inquest, Freeman described the horse as a bay. He said nothing as to the colour before the magistrates.—E. R. W.

Mr. Justice Park

care. On behalf of the defence has been called Mr. Wadeson, a respectable solicitor, as everybody knows, of the City of London. He states that he would not believe Probert on his oath unless he were confirmed by other testimony; and certainly, from what I have heard of him in this place, I must join with Mr. Wadeson in that opinion. In fact, in that character of Probert, Mr. Wadeson may be said to have told you all the law respecting accomplices. They are not to be believed on their oath, except in as far as they are confirmed by other testimony. With respect to Hunt, you have heard that he is to apply for mercy to the Crown.

The prisoner Thurtell has made a long address to you, and it is for you to pay every attention due to his statement. The prisoner Thurtell is to be distinguished from the prisoner Hunt in this, that he has called three witnesses to speak to his character—a respectable naval officer, Captain M'Kinlay; a Mr. Haydon, and a Mr. Walmsley. It must be observed of this testimony, and I speak it with concern, that it is in great part to character of an ancient date. If down to the present time Captain M'Kinlay had known intimately the prisoner Thurtell —if he could have stated that his conduct was uniformly correct, and that he had never known him guilty of acts of inhumanity— such a character would undoubtedly have had considerable weight in a dubious case. But when he tells us that he has not known the prisoner since 1814—ten, or at least nine years ago; and when the prisoner, in his own statement, speaks of the difficulties and distresses which he has since that time encountered, and which too often have an influence on the character of him who suffers them, the value of that testimony cannot be considerable. Mr. Haydon, the auctioneer, says that he has known Thurtell down to the present time; he does not say how long he has known him, but he says he has not lost sight of him for the last three years, and that he has always thought him a liberal and open-hearted man. Mr. Walmsley, the bailiff, says he has known him to the present time. What his knowledge was, and how the acquaintance originated he does not state, but he always thought the prisoner was a gentlemanly and honest man.

I must observe to you, gentlemen, that testimony as to character ought to prevail only in cases where fair and rational doubts are entertained as to other evidence—or I may explain my principle by stating that if this prisoner had been proved to us to have maintained the most respectable character, we should not sit here to try that good character, or to allow

that good character to prevail against the evidence of facts. And, on the other hand, neither should we try his bad character —for if he had been the worst character in the land, we should not be justified in making use of it to bear out unsatisfactory evidence as to the crime with which he specially stands charged. God forbid that in this happy country justice should be so far perverted that a man should be punished for his character, and not for his crimes. The prisoner, indeed, has reason to complain of the horrible calumnies which he states have been propagated concerning him, and it is inconceivable, if such things there are—for I myself know nothing of them—how men of liberal education, who have had the advantage of living in a land where good morals and sound religion are cherished—who have some sense of justice and humanity—should be guilty of such conduct towards a man placed in the situation of the prisoner at the bar. But you, gentlemen, are not to try the prisoner on his bad character—you are not to try him on his good character—you are to try whether he be guilty of the crime with which he is charged. And if he were an angel, I might say still, if the evidence as to that crime were clear and satisfactory, it would be your duty to return a verdict accordingly. If, on the other hand, there be rational doubts, such as may occur to fair minds, and to men acting on their oaths, you should then give the prisoner the benefit of those doubts, and throw into the scale whatever testimony to his character has been adduced. Mr Justice Park

But, gentlemen, and I can say no more than this, after the careful examination of the evidence through which I have led you, you must consider the weight of the facts proved in that evidence. If, notwithstanding the darkness at the time the crime was committed—if, notwithstanding the secrecy with which guilt seeks to shroud itself, the finger of God has pointed as plainly to the criminals as if they had committed their crime in the face of day, and before your eyes, it is your duty to your country, your duty to God, your duty to yourselves, to pronounce the verdict which must satisfy your conscience, notwithstanding any feeling you may have towards the individuals its consequence may affect. Gentlemen, consider of your verdict.

[The jury having consulted, desired to withdraw. An officer was sworn to attend the jury in the usual form.]

The prisoner Hunt (before the jury had withdrawn)—Will your lordship allow me to say a few words?

Mr. Justice Park—I am greatly distressed to have appeals

Mr. Justice Park made to me which the law and the constitution of England do not permit me to attend to; but your very learned counsel shall communicate with you, and he will state to me what it is you wish to say. If it be of weight, I will hear you.

[Mr. Thesiger then communicated with Hunt for a minute or two, and afterwards spoke on the bench to Mr. Justice Park.]

Mr. Justice Park—Gentlemen, I have nothing to say to you.

The jury then retired from the Court at half-past three o'clock.

While the jury were absent, the prisoners maintained their usual composure. Thurtell especially conversed with perfect ease and freedom with the persons about him in a manner as far removed from timidity as bravado.

About ten minutes before four the jury returned into Court, and were called over by their names, to which they all answered.

The Clerk of the Arraigns then asked in the usual form whether John Thurtell was guilty or not guilty of the murder of which he stood arraigned?

The Foreman of the Jury (in a low tone)—Guilty.

The Clerk—How say you, is Joseph Hunt guilty or not guilty?

The Foreman—Guilty, as an accessory before the fact.

The Clerk—Then you say they are both guilty as they are indicted?

The Foreman—Yes.

Motion in Arrest of Judgment.

[The learned judge was preparing to pass sentence of death when Mr. Andrews stated that his learned friend Mr. Chitty was prepared to move an arrest of judgment, which he begged his lordship to hear.]

Mr. Chitty Mr. Chitty then said he had a motion to make to his lordship, which he should not have ventured to interpose at so awful a time if he were not persuaded that it ought to have great weight, and that it was his lordship's duty to delay at least the judgment on the prisoners at the bar. His lordship would observe that, on an application from the prisoners, the trial had been postponed, and, in doing so, the commission had been adjourned to a day which was directed by a positive statute to be kept holy—the Festival of the Epiphany. It was on the ground afforded by this fact that he confidently offered a motion for the arrest of judgment. The motion was grounded on a statute which strengthened by the civil sanction the ordinance

of our holy religion. It was declared by the statute 5th and 6th Edw. VI. cap. 3 that certain days should be kept holy. The Act, in making this enactment, recited the intention of the Legislature—declared why the enactment was made, and why the days ought to be observed. Mr. Chitty

"Forasmuch as at all times men be not so mindful to plaud and praise God, so ready to resort and hear God's Holy Word, and to come to the holy communion and other laudable rites which are to be observed in every Christian congregation, as their bounden duty doth require: Therefore, to call men to remembrance of their duty, and to help their infirmity, it hath been wholesomely provided that there should be some certain times and days appointed wherein the Christians should cease from all other kind of labours and should apply themselves only and wholly unto the aforesaid holy works, properly pertaining unto true religion; that is, to hear, to learn, and to remember Almighty God's great benefits, his manifold mercies, his inestimable gracious goodness, so plenteously poured upon all his creatures, and that of his infinite and unspeakable goodness without any man's desert; and in remembrance hereof, to render unto Him most high and hearty thanks, with prayers and supplications for the relief of all our daily necessities; and because these be the chief and principal works wherein man is commanded to worship God and to properly pertain unto the first table; therefore, as these works are most commonly and also may well be called God's service, so the times appointed specially for the same are called holy days; not for the matter and nature either of the time or day, nor for any of the saints' sake, whose memories are had on those days (for so all days and times considered are God's creatures, and all of like holiness), but for the nature and condition of those godly and holy works, wherewith only God is to be honoured, and the congregation to be edified, whereunto such times and days are sanctified and hallowed; that is to say, separated from all profane uses, and dedicated and appointed, not unto any saint or creature, but only unto God and His true worship; neither is it to be thought that there is any certain time or definite number of days prescribed in Holy Scripture, but that the appointment both of the time and also of the number of the days is left by the authority of God's Word to the liberty of Christ's Church, to be determined and assigned orderly in every country by the discretion of the rulers and ministers thereof, as they shall judge most expedient to the true setting forth of God's glory, and the edification of their people: Be it therefore

Mr. Chitty enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, that all the days hereafter mentioned shall be kept and commanded to be kept holy days and none other; that is to say, all Sundays in the year, the days of the Feast of the Circumcision of our Lord Jesus Christ, of the Epiphany. And that none other day shall be kept and commanded to be kept holy day, or to abstain from lawful bodily labour.

"And it is enacted by the authority aforesaid, That it shall be lawful to all archbishops and bishops in their dioceses, and to all other having ecclesiastical or spiritual jurisdiction, to inquire of every person that shall offend in the premises, and to punish every such offender by the censures of the Church, and to enjoy him or them such penance as shall be to the spiritual judge, by his direction, thought meet and convenient."

His lordship would observe that this clause was not merely prohibitory, but enactive, and then followed a clause of exception, in the spirit of those exceptions which our Saviour had made respecting holy days, viz., in favour of works of necessity.

"Provided always, and it is enacted by the authority aforesaid, that it shall be lawful for every husbandman, labourer, fisherman, and to all and every other person or persons, of what estate, degree, or condition he or they be, upon the holy days aforesaid, in harvest, or at any other time of the year when necessity shall require, to labour, ride, fish, or work any kind of work at their free wills and pleasure; anything in this Act to the contrary in any wise notwithstanding."

The exception in this clause certainly did not comprehend the works of a Court of justice. In the first year of Queen Mary's reign this statute was repealed, and it was re-enacted in the 1st James I. cap. 25, section 48. Dr. Burns, in his work on ecclesiastical law, laid great stress on this statute, and gave his opinion that, in addition to the ecclesiastical censures mentioned in the statute, the offender might be proceeded against in the common law course by indictment as for contempt, and be punished by fine and imprisonment; and, indeed, it might be taken as a general rule that whoever violated a positive enactment was punishable by fine and imprisonment, where other punishments were not provided. His lordship would know that the Epiphany, being the manifestation of Christianity to the Gentiles, should be——

Mr. Justice Park—There is full Church service on that day; that is all that need be said.

of sanction approaching to the nature of an oath to their asser- Mr. Chitty
tions, which they are not called upon to give. A counsel is not only not blamed, but honoured, for advancing an opinion with ingenuity which his deliberate and impartial judgment might not confirm, but he is not called on to sanction it by appeals to the Deity. If I had the least possible doubt in this case, I should give the prisoners the benefit of it; but the uniform practice of Courts under the statute left no doubt on the lead, and it was for the learned gentleman or his advisers to indict them if they pleased (though he much doubted the doctrine of Dr. Burn) that even against real breakers of this statute indictment would lie, seeing that the censure in the Spiritual Court was specially provided. Surely all who turned to the history of their country must know the nature and cause of the statute quoted. Edward VI. was the first Protestant monarch properly so called; for though Henry VIII. made some reforms and adjured some of the errors of the Church of Rome, his conduct was so uncertain, and he vacillated in that sort of way, that he seemed Protestant one day and Papist the next.

I honour every man who, in his leisure, regards with reverence the days that are set aside as holy by this statute, but I cannot think that the pure and holy administration of justice will affect the purity or holiness of any of these days. It was not the intention of the statute to establish, but to limit, the number of holy days, which were too numerous and too superstitiously observed in Popish times. I much wonder, however, that in that statute the fast of Good Friday is not mentioned. Perhaps that day in particular had been too superstitiously observed. The practice for nearly three hundred years, under that statute, had shown the sense of legislature. True it is that, during term time, there are certain days set aside when the peace of Holy Mother Church, according to ancient language, is to be kept, but it has never been thought that any day is less sacred for the sacred administration of justice. And, after this uninterrupted practice, that I should be called upon, in the nineteenth century, to say that all the business transacted on such days in Courts of justice has been *coram non judice*. Why, my Lord Chief Justice is, at this very time, trying causes on which thousands depend—in Guildhall! What becomes, too, of the Old Bailey? The motion is made on grounds so large, so extensive, so novel, so dangerous, and so unsubstantial, that I should think myself utterly disgraced if I paid any attention to it.

The Judgment.

Mr. Justice Park

The Officer of the Court then said—You, John Thurtell, have been indicted that you feloniously, and with malice aforethought, murdered William Weare; and you, Joseph Hunt, have been indicted as having counselled, aided, hired, and abetted the said John Thurtell to commit the said murder, and you have pleaded not guilty to this indictment, and have thrown yourselves on your country, whose verdict you have heard. What have you, or either of you, to say why sentence of death should not pass on you?

The prisoner THURTELL—My lord, before you pass sentence, I pray you to take into your serious consideration what I say. I now, for the last time, assert that I am innocent. I entreat a short delay in the execution of the sentence you may pass, as I have friends now at a distance with whom it is necessary that I should transact some business. It is for the sake of some friends that are dear to me that I ask this indulgence [here the prisoner seemed affected, and shed a tear], not for myself, for I am this moment ready [with firmness]. My request, I hope, your lordship will take into consideration, and beyond Sunday next is all I ask.

Mr. JUSTICE PARK—John Thurtell, and you Joseph Hunt, after a very full, a very fair, and, I trust, a most impartial trial, a jury of your country have, with, I think, the most perfect propriety, found you guilty; you, John Thurtell, as the principal in the commission of a foul murder, and you, Joseph Hunt, as an accessory before the fact of the same crime. It cannot but give great compunction to every feeling mind that a person who, from his conduct this day, has shown that he was born with a capacity for better things—who, according to his statement, received in his childhood religious impressions from a kind and careful mother—who in his youth served his country without reproach—should, notwithstanding, have been guilty of so foul and detestable a crime. For, notwithstanding your repeated and confident asservations of your innocence, I must declare that such has been the force of the evidence against you that I am, in my mind, as confident of your guilt as if my mortal eyes had seen the commission of the crime. And I trust that you will not lay that flattering unction to your soul, that the declarations of your innocence will avail you here, still less before the all-seeing eye, who searches all hearts, and

not add to your misfortunes and your guilt by rushing into His presence with a lie in your mouth and perjury in your right hand. You best know, or He best knows, what your conscience says to those declarations of innocence; but on the evidence on which we must act it does most clearly appear that you have been guilty of one of the most foul, most bloody and deliberate murders that has ever been perpetrated or punished. That you should go on with your victim into those haunts of gamblers which afford the incentives and the encouragement to the basest and the most furious passions—that you should propose to introduce him to the house of your friend—that you should lead him to make preparation for enjoyment and for social intercourse with you—and that, in the moment of darkness, before he had reached that house, you should betray and murder him, does seem the height of cruelty and crime. If he was the person, in point of human conduct, which he is described to be, consider how much your guilt is aggravated in sending him to account before his Maker, without one short moment of preparation—without even the space once to take the name of God religiously into his mouth. I say not this to aggravate your sufferings—I say it only to awaken your mind to the sense of your awful condition, and to lead you to the only refuge that is now left for you. Short as is your time of preparation for your great change, I trust you will lose not a moment in applying to the Throne of Grace. Short as it may be, too, recollect that it was more than twenty times told the space given by you to the unhappy man whose blood you violently shed. And I trust, too, that even the past month, which the postponement of your trial has afforded you, instead of having fixed your mind entirely on the means of defence against the just punishment, which you cannot escape here, you have employed yourself in a way which must have been, and which must be more profitable to you, in seeking to make your peace with that God with whom is mercy towards the worst of sinners. I understand that the clergyman of this gaol is a most respectable man; I understand from the statements of one of you that he has been assiduous in calling on those feelings in your bosom which he may not yet have awakened. He will show the way to salvation; he will show you that grace may yet be given to a contrite heart. Seek, O seek it earnestly, I beseech you; knock earnestly at that gate which is never shut to a repentant sinner. Pour yourself out at the feet of your Redeemer in humbleness and truth, and to His grace and mercy I commit you; and, while you are seeking for it, you shall have

Mr. Justice Park

Mr. Justice Park my devout and constant prayers that your supplication may be heard.

The sentence of the law which I have to pronounce upon you, John Thurtell, according to the statute, is this—that you, John Thurtell, be taken to the place from whence you came, and from thence that you be taken on Friday, the 9th instant, to a place of execution, and that you be hanged by the neck until you be dead, and that your body be taken down and given to the surgeons for dissection. As for you, Joseph Hunt, the sentence of the law is, that you be taken from hence to the place from whence you came, and from thence to a place of execution, and that you be hanged by the neck till you be dead; and may God of His infinite mercy have compassion on both your souls.

APPENDICES.

APPENDIX I.

STATEMENTS AT CORONER'S INQUEST.

(31st October and 1st November, 1823.)

HUNT'S STATEMENT.

In consequence of an indictment against John Thurtell and Thomas Thurtell for defrauding the County Fire Office of nineteen hundred and odd pounds, Thomas and John Thurtell left the Cock Tavern, in the Haymarket, and took up their residence at a Mr. Tetsall's (the Coach and Horses), in Conduit Street, Bond Street. I was invited to dine with them. I called there on the Friday morning, 24th October, when John Thurtell invited me to take a walk. I walked with him as far as High Street, Marylebone. We stopped at a jeweller's shop. While we were looking there, John Thurtell observed a pair of pistols, which he said he would go and look at, for he wanted to purchase some. They were marked £1 17s. 6d.

John Thurtell asked me, after dinner, if I knew where I could get a gig. He gave me £1 10s. for the gig. He told me not to say that the gig was going to Hertford, but to Dartford. I returned with the gig to the Coach and Horses about a quarter before five. John Thurtell immediately got into the gig, said he could not wait any longer, as he had a gentleman to meet. After he was gone, Probert said to me, "As John Thurtell has gone down to the cottage, have you any objection to take a seat in my gig, as he (John Thurtell) is obliged to be out of the way, in consequence of the warrant out against him for the conspiracy; most likely we should spend a pleasant evening together."

About six o'clock on Friday evening Probert's gig was brought to the door of the Coach and Horses. I took a seat in the gig; we proceeded as far as Oxford Street. Probert said we must take something home for supper; we stopped at a pork shop, where I got out and purchased a loin of pork. We proceeded from these as far as Mr. Harding's, a publican in the Edgware Road, where we had a glass of brandy and water. From thence we proceeded as far as Mr. Clarke's, another publican, and had two more glasses of brandy and water. From there we proceeded to this house (the Artichoke). We had

three, but from what appears from the landlord, Mr. Field, we had five more glasses. We did not get out of the gig here. Probert observed to Mr. Field that the friend that was with him could sing a very excellent song. Probert wished me to sing a verse, but I declined. We proceeded from this house about a quarter of a mile. Probert stopped the gig, and said to me, "Hunt, you get out, and wait my return." I did so. About half an hour or more might have elapsed when Probert returned, and desired me to get into the gig.

When we arrived at the cottage John Thurtell was in the stable. Probert said to me—"Hunt, take that loin of pork out of the gig." I took the pork into the kitchen, and remained in the kitchen about ten minutes, when John Thurtell and Probert followed. We went into the parlour. I was introduced to Mrs. Probert. John Thurtell then called me and Probert into the garden, and said, "I have killed that —— that robbed me of £300 at blind hookey." "Good God!" said Probert, "John, surely you have not been guilty of so rash an act?" John Thurtell immediately took from his pocket a very handsome gold watch, and said, "Do you believe me now? And if you will go with me I will show you where he lies dead behind a hedge." Probert then said, "This has taken such an effect on me that I must retire and get some brandy."

We then went into the parlour. The supper was brought in, which consisted of pork chops, the loin I brought down having been cut into chops. I ate five chops, and so did Probert. John Thurtell declined eating any, as he complained of being extremely sick. Probert and I then went into the garden again, and Probert said to me, "Surely, Hunt, this man has not been guilty of murder?" I observed it looked very suspicious, he (John Thurtell) having so valuable a watch. John Thurtell followed, and asked Probert and myself if we would accompany and assist him in carrying the dead man. During this time Mrs. Probert was gone to bed. John Thurtell said—"If neither of you will assist, I will go myself." He accordingly went by himself, and was gone about ten minutes or a quarter of an hour. During the time he was gone Probert said to me—"If this is the case, Hunt, that John Thurtell has murdered the man, it will ultimately be the ruin of me and my family."

After this conversation was over between me and Probert John Thurtell returned, saying—"This —— is too heavy for me, and if you won't assist me I shall put the bridle on my horse and throw the dead man across his back." He accordingly put the bridle on his horse for that purpose. Probert and me, while he was gone the second time, went into the parlour, and

he said to me—"Hunt, this has taken such an effect on me, and I am so agitated, that I don't know what to do." He said —"What will my wife think?" John Thurtell then returned to us in the parlour, and said to Probert and myself—"I have thrown the dead man into your fish pond." "Then, by ——, sir," said Probert, "I insist upon your immediately going and taking him away off my premises, for such conduct will evidently be my ruin." Me and Probert and John Thurtell went to the pond, where we saw the toes of a man. John Thurtell then got a line or rope and threw it round the feet, then dragged it to the centre of the pond. John Thurtell then said to Probert—"Don't give yourself a moment's uneasiness, the man shall not remain here long—you well know, Probert, that I would not do anything that would injure you or your family." We then went into the parlour. John Thurtell threw himself upon some chairs, Probert went up to his wife, I believe; I sat in an arm-chair. Next morning, after breakfast, Probert said—"You are going to town," to me and John Thurtell; "but I shall expect you will return to-morrow (Sunday) to dinner," which I promised, and did. Probert said to John Thurtell—"Mind and bring a piece of roast beef with you, or we shall have nothing for dinner." We then left the cottage and went to London. I left John Thurtell at Mr. Tetsall's, the Coach and Horses, with his brother Thomas.

On Sunday morning we left Mr. Tetsall's in a gig, taking with us a piece of roast beef and two bottles of rum. John Thurtell said to me, when we got as far as Tyburn—"My brother Tom is ahead, and Thomas Noyes." (Thomas Noyes is a brother-in-law of Probert.) When we got to the bottom of Maida Hill we took up Thomas Thurtell, who joined us for the express purpose of seeing his two children, that had been on a visit to Probert's. When we had travelled 3 or 4 miles from Maida Hill we met Thomas Noyes. John Thurtell got out of the gig, leaving me and Thomas Thurtell together in it, to make the best of our way to the cottage, in order that Thomas Thurtell might put Probert's horse into his gig to fetch John Thurtell and Mr. Noyes. When we arrived at the cottage the horse that we went down with was taken out of the gig and Probert's put in. After Thomas Thurtell was gone to fetch Mr. Noyes and John Thurtell, Probert said to me—"I have not had a moment's peace since I saw you last, in consequence of that man lying in my pond." My reply was—"I am sure you have not had a more restless night than myself." Shortly after that Thomas and John Thurtell and Mr. Noyes arrived at the cottage.

We then, I mean the whole four of us (Hunt, Thomas and John Thurtell, and Noyes) walked across a ploughed field into

a lane, and returned to the cottage. When we arrived at the cottage there was a gentleman whose name I do not know, but I believe him to be the gentleman that owns the estate, came in. Mr. Noyes, the Thurtells, and myself walked about the grounds till we were called in by one of Thomas Thurtell's children to dinner. After dinner we had some rum and water, and sat for a space of three hours, and then had tea. After tea we had some rum and water, and then we went to the stable to see the horses. We then had supper. John Thurtell, myself, Thomas Noyes, and Probert sat up till about half-past one. Probert and Thomas Thurtell then went to bed, leaving me, John Thurtell, and Noyes up.

About half an hour after they were gone to bed Thomas Noyes followed, leaving John Thurtell and myself in the parlour. I said to John Thurtell I shall lie down on the sofa. He said he would sit up and smoke. I left him smoking by the fire, with his back towards me, and I lay down, pulling my great-coat over me. About half-past six in the morning the servant came into the room. John Thurtell asked if the boy Jem was up. The servant said, "No." During this time Probert came downstairs, and the boy followed. He desired the boy to put the horse in his own gig, which was done immediately, and Thomas Thurtell and myself came to town, bringing with us the boy called "Jem." When we got as far as the Bald-Faced Stag we breakfasted. From there we went to Mr. Tetsall's, where Thomas Thurtell was informed that the bail he had put in was not accepted. About half-past eleven I called at my mother's, in Cumberland Street, New Road. After I had seen her, going from the New Road toward the Yorkshire Stingo, I met John Thurtell, Thomas Noyes, and Miss Noyes, his sister. John Thurtell asked me if the bail was accepted. I said, "No." He then got out of the gig, and Thomas Noyes and his sister drove away. I and John Thurtell walked to Mr. Tetsall's. Thomas Thurtell asked me if I would return on that day and inform Probert that his bail had been refused, to which I consented. About half-past four I started. As I was going along John Thurtell came to the end of the street to me and said, "If you are going to Probert's I may as well go with you and get that man away" (meaning the man that was left in the pond). I said, "If you are going upon that business don't expect me to aid or assist in any way." We came and stopped at this house, and went to Probert's. I informed Probert, in the presence of his wife, that Thomas Thurtell had requested me to come down that evening to know whether he could appoint any other person to become bail? Probert said it was useless for him to write, for that he would be up in town as early as possible the following morning. We then had part of

a cold duck and some ale. John Thurtell then called Probert out. Probert was absent about ten minutes, and then returned by himself. Shortly after that John Thurtell asked me and Probert if we could put his horse in the gig and take it round to the second gate? We put the horse to, and did so. John Thurtell then came across a small field with a dead man in a sack, with his legs hanging out. He then asked Probert to assist him to put the dead body in the chaise, which Probert refused to do. Probert immediately ran away, and said, "I cannot stop any longer, my wife will think it very strange." He then asked me to assist him. I refused, saying the sight of a dead man was quite enough without touching it. John Thurtell then put the corpse in the chaise and tied the feet to the dashing iron. He asked me if I would get into the gig, but I declined, and told him that I would walk on, and he would overtake me. When I got within a short distance of this house John Thurtell told me that he had thrown the corpse into that marshy pond I had just passed. I then got into the gig, and left John Thurtell about two o'clock that morning at the house where he then lodged, and went home myself immediately. That, gentlemen, is the whole of the evidence I have to give to-night.

[Hunt at a subsequent period communicated the following particulars.] On the return of Thurtell, after the body was removed from the lane and sunk in Probert's pond, Thurtell produced the reader [the flash term for note-case], out of which he took three £5 notes, and also a purse, from which he took four sovereigns. He gave Probert and myself £6 each as our share of the property found. He then burnt the note-case and the purse. He also burnt a betting book—a red one. At the request of John Thurtell I purchased in Hind Street, Bloomsbury, a sack and some cord, which went down in Thurtell's chaise. Further, John Thurtell told me, when describing the manner in which he had tackled with Mr. Weare, that at one time he had nearly mastered him, and got above him, upon which he took out his knife and cut his throat. The blood of Mr. Weare in consequence came on his face and into his mouth in such quantities that he was nearly choked. It was in consequence of this that he was seized with sickness at supper and could not eat any pork. After he cut Mr. Weare's throat the unfortunate gentleman's strength failed, and he threw him off. He then took his own shawl and wrapped it round the neck of the corpse to prevent effusion of blood.

[This shawl was found round the neck of the deceased when he was taken out of the pond.]

Examined by the Coroner—Now, Mr. Hunt, I will ask you a few questions arising out of your statements, which I think

I have a just right to do. I do not observe that you stated that any property was divided between you?—There were £6 given to me, which I considered as paying me for my professional duties.

What professional duties?—I was taken down there to sing to Probert and his company.

Who gave you this sum?—John Thurtell.

Did he give money to any one else?—He gave the same sum to Probert.

Was any agreement made with you by Probert before you went out of town; did you go down to the cottage for the purpose of singing?—Yes, certainly.

Where was this agreement entered into?—It was talked of when we were at Mr. Tetsall's, at the Coach and Horses. Myself and John Thurtell and Probert were present.

Did you observe Probert lend John Thurtell any money that afternoon?—No.

Then when Probert asked you to go down to the cottage you considered you were going down for the purpose of singing?—Certainly.

Did you sing?—Yes.

To whom?—To Mrs. Probert, her sister, Thomas and John Thurtell, and Mr. Noyes.

Were Probert and John Thurtell in the room?—Yes.

What day was this?—This was on the Friday night, or, more properly speaking, early on the Saturday morning. It was after twelve.

Was that after John Thurtell came into the room and informed you and Probert that the murder had been committed?—Yes.

Did you hear John Thurtell say he kept £6 for himself?—No.

Then after John Thurtell had called you and Probert out, and told you of the diabolical deed, you returned quietly to sing in the parlour?—Yes.

How long were you absent?—About ten minutes.

You did not say anything in your statement to-day of your being employed to sing?—No, I did not.

Did you go out with a lantern?—No.

Did Probert go out with a lantern?—Not to my knowledge. I never saw any lantern, with the exception of that in the stable.

Who was in the stable?—The boy cleaning the horses.

And no further conversation passed about the murder?—None whatever. I was introduced to Mrs. Probert; she knew very well on what business I had come down.

You were fully aware of the murder?—I was not fully aware of it. I was told of it by John Thurtell.

You saw the watch?—Yes, and I thought that was suspicious.

In the presence of John Thurtell, Probert, &c., and after the former had told you he had murdered this unfortunate person, you amused yourself singing?—Yes.

And you made yourselves merry during the evening?—Yes.

And you considered that the £6 you received was for your exertions on this evening?—I was there on the Sunday.

Did you consider that you received the £6 for no other reason?—No, certainly not.

You have stated that you saw the pistols bought. After he bought them did nothing pass between you and him?—Nothing whatever.

Do you know where the sack was bought?—Yes.

Who bought it?—I did.

Do you know where the cord was bought?—Yes.

Who bought it?—I did.

Where did you buy the sack?—In Broad Street, Bloomsbury.

After you bought the sack, what did you do with it?—I took it to John Thurtell. He said it was for the purpose of putting game in.

The cord, what was that for?—I am sure I cannot tell you; to tie up the game, I suppose.

Did you see him start?—Yes.

Where from?—The Coach and Horses.

Where did he say he was going to?—He said a gentleman was to meet him, but he did not say where he was going to.

Did he say anything about Mr. Probert's house at the time?—No.

You received the £6 from John Thurtell?—Yes.

Where did he take it from?—From a pocket-book.

Were you going away after you got the £6, and finished your professional labours?—No; it was too late an hour. It was one or two in the morning. It was after Mrs. Probert had gone to bed.

He did not take the money from his pocket?—No; it was from a sort of note-case. He paid Probert with a £5 note and a sovereign.

Do you know what he gave Probert money for?—No, I do not.

Was there any observation made by John Thurtell when he paid this money?—No.

Nothing respecting the murder?—Nothing passed the whole of the evening about that business.

You were all extremely cheerful?—Yes.

Did you see a purse?—John Thurtell had a brown silk purse, as well as the small note-case.

What did he do with the note-case?—He threw it in the fire.

What did he do with the purse?—He threw that in the fire also.

Did you see any papers put in the fire?—There was a little betting book put in the fire.

There was nothing of this in your statement to us?—No.

Were the £6 given to you and Probert as your shares of the money found?—Yes, it was.

What passed?—I do not recollect.

Where did you hire the horse?—At Probatt's, at the Golden Cross Yard; no relation to the prisoner Probert.

Do you know where the clothes of the deceased were put?—Not of my own knowledge; I wish I did; but I considered near the pond.

Had he any clothes on?—No, they were cut off. The clothes were taken off, for he was naked when he was brought into the lane and put into the gig.

Then you do not know from your own knowledge or from information what became of the deceased's clothes?—I have not the slightest knowledge.

Had you ever any of the clothes of the deceased on your own back?—Never.

What became of them after he was dead?—That I don't know.

How do you know they were cut off?—Because I was told so by John Thurtell.

On Sunday evening had you any other person's clothes on except your own?—On Sunday evening I had a suit of black clothes on of John Thurtell's.

For what purpose did you exchange your dress?—As it was Sunday I wished to appear decent and respectable.

What dress had John Thurtell on?—A blue coat, light waistcoat, light, small clothes, and gaiters.

Where did you change your clothes?—In a little room by Mr. Probert's bedroom.

Were you given to understand the clothes you put on in Probert's house on the Sunday were the property of the murdered man?—Why, yes, I have since been given to understand so, for I told the officer where to find them.

When did you give the information?—When I was at Watford.

After you were in custody?—Yes, on Wednesday last.

Had you any reason to believe that the property belonged to John Thurtell?—Yes.

Did you go up with John Thurtell when he went to London?—Yes.

Was there not a carpet-bag put in the gig?—When we left

Probert's there was a carpet-bag put into the gig, and a box coat, and a gun and a powder horn, with a shooting-jacket.

Were there any other things in the gig when he left the Coach and Horses on the Friday night?—No.

If you did not know what these things were, how did you know to give a description of them when you ordered them to be given up?—I did not say I had not seen them.

Then you knew the contents of the carpet-bag?—Yes, John Thurtell sorted them up, and put them into my drawer, and desired them to be taken care of. The bag was left in the gig all night, and was brought to my house in the morning. I and John Thurtell walked on Saturday morning through a ploughed field, and broke through a hedge into a lane; it was not so late as seven o'clock. We saw two men in the lane, to whom John Thurtell said he had lost a handkerchief and a knife—the lane was a quarter of a mile from Probert's house. After leaving the lane we went to breakfast. I saw no handkerchief. I did not sponge my clothes, but I brushed John Thurtell's clothes, at his request. I took a spade down in the chaise with me; I was requested to do so, but don't know for what purpose. John Thurtell threw it over a hedge near the gate, where the body was brought out by him naked. I did not see it used. I suppose it was brought for Probert's use.

What is become of the box coat?—It ought to have been found at my lodgings by the officer, and also a backgammon board, which was left there.

Were you and John Thurtell down a lane near Probert's house on Friday night?—No, I was not; we walked on Saturday morning through a ploughed field, and broke through a hedge into a lane.

What time was this?—Not so late as eight o'clock.

Did you see two men in the lane?—Yes, John Thurtell spoke to one of them.

What did he say to the man?—He said he had lost a handkerchief and a knife in the lane.

How far was this from Probert's house?—About a quarter of a mile.

Had you and John Thurtell been looking about the lane for the knife, &c., for some time previously to his speaking to the man?—No; I didn't know that he had lost a knife till he spoke to the man.

Were you in that lane at any other time with John Thurtell after the murder?—No.

Have you told all the conversation that has taken place between you and John Thurtell in the parlour of Probert on the night of the murder and elsewhere since the murder?—Every word that I recollect.

Did John Thurtell not say to you before he went with you down the lane what he was going back to look for?—No, he did not.

Where did you go after you left the lane?—To breakfast at Probert's.

By a JUROR—What did John Thurtell say that he was going to do when he left you for a quarter of an hour on the night of the murder?—He did not say where or what he was going to do; he merely asked me to wait there till he returned, and I did so.

Was the sack you bought in St. Giles the one the body of Mr. Weare was put in after his murder by John Thurtell?—I presume it was.

By the CORONER—What did Thurtell mean when he said, "That is your share of the money found"; where was it found?—I cannot say, I was not present when it was found; I was not very *compos mentis* on that night.

When you went down the lane with John Thurtell you returned with a handkerchief?—No, I saw no handkerchief.

Did you see a large piece of sponge at Probert's?—Yes, I did; it belonged to John Thurtell; he bought it, I suppose. I saw it in the pail in the stable.

Did you not sponge some clothes?—No; I brushed John Thurtell's clothes.

By a JUROR—When you came down to Probert's on Friday you wore black whiskers and mustachios?—Yes.

What has become of them?—Why, you must see that they are cut off.

Why did you cut them off?—I have a hard beard, and cut them off for my own pleasure.

Have you been in the habit of cutting off your beard and whiskers?—Yes, I have.

Where did you cut them off?—At my lodgings in London, prior to my apprehension.

By the CORONER—Have you any objection to sign this as your voluntary statement?—None whatever.

PROBERT'S STATEMENT.

On Friday afternoon I dined at Mr. Tetsall's, the Coach and Horses, Conduit Street, with the two Thurtells, Hunt, Mr. Noyes, and one or two more gentlemen, whose names I do not recollect. John Thurtell asked me to lend him £5 or £6. I borrowed £5 off Mr. Tetsall, and Mr. Tetsall gave the £5 to John Thurtell. I also gave Hunt £1 for John Thurtell, which

ma'e £6. I think about six o'clock I left to come down to Aldenham to my house. Thurtell asked me if I would drive Hunt to my home; if not, he said he would hire a horse for him. I said that as I was going home I would drive him. John Thurtell said, "I am coming to spend the day with you, and shall bring a friend with me." I said, "Very well; and I should be happy to see them." I then left Mr. Tetsall's and came with Hunt to the Bald-Faced Stag, in the Edgware Road. Hunt said, "I must not go in there, as I have not returned the two horse-cloths I borrowed." He walked on to Mr. Clarke's, the tavern-keeper, which is near the Edgware turnpike, where I stopped and took him up, and drove him very near to Mr. Phillimore's lodge, and Hunt then said, "I must wait here till Thurtell joins me, according to appointment."

By the CORONER—Did you not call on the way at this house? —I beg pardon; yes, I drove Hunt to this house, and we drank several glasses of brandy and water, and remained here about an hour. We left this house about nine o'clock. I went from here to Mr. Phillimore's lodge, and Hunt got out and said—"I must wait here for John Thurtell, and you may go on." I went on till I was within 100 yards of my house, and then I met John Thurtell. He said—"Where is Hunt?" I said I had left him on the road waiting for you. He said—"You must turn back then and fetch him, for I have killed my friend, and I don't want him." I said, "Good God, I hope you have not killed any person." He replied—"I have, and now I am happy, for he has robbed me of several hundreds." I then returned with Hunt, and at my gate Hunt said to John Thurtell—"Where could you pass me?" John Thurtell replied—"It don't matter where I passed you, for I have done the trick." I said—"For God's sake, who is the man you have killed?" John Thurtell said—"It don't matter to you; you don't know his name and never saw him, and if you ever say a single word about him, by God, you shall share the same fate, for Joe and I (meaning Hunt and John Thurtell) meant to have had your brother-in-law that is to be the other day (Mr. Wood), only that he ran so fast when he saw the house, and escaped." He also said—"I have more to kill, and you will be one of them if you don't do what is right."

We then went into my parlour, and had something to eat and drink. Afterwards John Thurtell pulled a purse out of his pocket and said—"This is all I have got for what I have done." How much was in the purse I do not know. A gun and a watch he also produced, and several papers. John Thurtell and Hunt both examined the papers, and handed them from one to the other, and afterwards threw them into the fire. I had occasion then to go upstairs to Mrs. Probert, and I did not see anything

more of the papers. John Thurtell said—"Now we must go and fetch the body, and throw it into your pond." I said—"That you never shall do." He said—"You must do as I tell you, and I will come and fetch it away to-morrow." John Thurtell and Hunt then went and fetched the body, and threw it into my pond. I saw them throw it in. John Thurtell after that produced a note-case made of silk or stuff, and took out of it three five-pound notes, and said to me—"Here is the £6 I borrowed of you yesterday," and he gave me a five-pound note and a sovereign. I am positive he said on giving me the money, "Here is the £6 I borrowed of you yesterday, for which you are answerable to Mr. Tetsall." That is all the money I saw, though there were some sovereigns in the purse.

I believe in the course of half an hour I went to bed. I left both Hunt and Thurtell in the parlour, with a bottle of brandy on the table. Mrs. Probert and Miss Noyes had then gone to bed an hour and a half. Mrs. Probert pressed them (Hunt and John Thurtell) to go to bed half an hour before she went to bed, and she said Miss Noyes would sleep with Thomas Thurtell's two children. One of them replied—"We have a good deal of night work to do, and want to use ourselves to it." When I went to bed, I thought my wife had been in bed at least an hour and a half. As I entered the room she was not undressed. She was crying, and she said—"For God's sake, what is it that Mr. Hunt and Mr. Thurtell and you are doing up? If I knew I would inform against you." This was about one o'clock in the morning. I said—"My dear, I am doing nothing that will hurt me; I am not guilty of anything." We both then went to bed, and I think I lay till past nine on the Saturday morning, but not an hour did I sleep the whole of the night, nor did Mrs. Probert, for she was fretting all night. I did not tell Mrs. Probert anything about the murder. I said to her that I had done nothing that would injure me.

When I came down to breakfast, I found Hunt and John Thurtell standing up in my parlour, and the cloth laid for breakfast. About ten o'clock my boy put my horse in the chaise, and they left my house about half-past ten. The boy put the gun in the chaise, and one or two bundles of clothes tied up in handkerchiefs, and a striped carpet bag with a padlock. I can't say if it was locked up. I can't say who these things belonged to. I suspected they belonged to the deceased, but was not certain. As they went out of the yard they said—"We shall come down and dine with you to-morrow, and bring Thomas Thurtell and Noyes most likely." They all four, John and Thomas Thurtell, Hunt, and Mr. Noyes, came down next day as we were sitting down to dinner. John Thurtell and Hunt both observed that I did not eat two mouthfuls. John

Thurtell said—"You will never do for a Turpin." This was said before Mrs. Probert and Miss Noyes, who did not know what it meant.

The CORONER—They must have known what was meant. Turpin was a notorious highwayman and murderer, and what John Thurtell meant was obvious.

PROBERT continued—After dinner we walked in the garden. John Thurtell, pointing to Hunt, said—"See how my Joseph is dressed up to-day. Don't he cut a good figure?" He meant by this that Hunt was dressed in good clothes. He had on a buff waistcoat, and a black handkerchief. They were the deceased's clothes, I was told. I said to Hunt—"If they are the deceased's clothes, good God! how can you wear them?" Hunt said—"What is that to you whose clothes they are? They are not yours." This was on the Sunday after the murder.

The CORONER—I advise you, though I am not bound to sit here to give advice, that you should not say any more, for what you say of occurrences after this can only injure you.

PROBERT—I thank you, sir. I will only say that I am not the murderer, and I declare solemnly before my God and Saviour that I never knew the man, or saw him, or even knew the name of the man, or that he was coming down from London. God Almighty knows I am not guilty of this horrid murder. I knew of John Thurtell coming down, and, as he said to me, with a gentleman, but I did not know who the person was. He said they should shoot on Lord Essex's estate.

By the CORONER—I have one question or two to ask. Did you take part of the deceased's money?—No, I did not.

Did you see the deceased's clothes taken out of your house?—No, my boy put the gun into the chaise.

Did Hunt come down to sing professionally?—No.

Did he sing on the Friday night, after you had been informed of the murder, in your parlour?—I rather think he did sing one song, but I cannot swear.

Did Hunt receive any money from John Thurtell on that night?—I think he did, but I am not positive.

Did you order John Thurtell to bring you a new spade down from London?—Never.

Did you ever see a spade that he brought down?—Yes, I found one on my grounds after the murder.

By a JUROR—You called at this house on the Friday night with Hunt about the time of the murder?—Yes, I did.

You said to the landlord that Hunt was a good singer?—Yes, I did.

Were you both inebriated?—A little.

Thurtell and Hunt.

THOMAS THURTELL'S STATEMENT.

On the same day on which the coroner's jury was held, Thomas Thurtell delivered to the magistrates a written statement, of which the following is the substance:—

It commences by stating that, on the day of the murder, he met his brother and Hunt at the Coach and Horses. In the evening Hunt came up to the door in a gig drawn by a grey horse, into which John Thurtell, his brother, got, and drove away. Hunt went away with Probert. He saw two pistols with his brother John, and asked him what he wanted with them. Hunt made use of a dreadful expression, and asked him what was that to him? and then, turning to Probert, said—"Bill, will you be in it?" Before they went away Probert smiled.

Hunt had previously brought a sack and some cord, which he put into John Thurtell's gig, and then said, "Jack, it's all right, drive away like ——." Hunt said, before they left the house in the evening, addressing himself to John Thurtell—"Jack, our friends had better be civil, or they will get served out," following this threat up with the most horrid oaths.

Both John Thurtell and Hunt were constantly talking of ripping people up and shooting them; but he (Thomas Thurtell) thought it was only their idle bravado. He (Thomas Thurtell) was engaged the whole of the Friday night. This has been confirmed by credible witnesses.

On the Saturday morning he went to the Coach and Horses, and remained there all day; John came about three o'clock, and was in excellent spirits. He (Thomas) remarked that his brother's hands were much scratched, and asked him how it happened? John said, he, Probert, and Hunt had been netting partridges, and that his knuckles were scratched by the brambles. He observed a gold watch in John's hand, and asked him where he got it? John told him to ask no questions, as it was no business of his.

Hunt came in shortly after with a bundle, containing a blue coat, a buff waistcoat, and a pair of leather breeches, which he had taken out of pawn for J. Thurtell. On putting down the bundle he pulled out of his pocket three sovereigns, some silver, and a five-pound note, and said to Mr. Noyes, who was present, "Now, you ——, do any of you want change for a fifty-pound note, for if you do I'm your man? We are Turpin-like lads, and have done the trick"; and then he laughed heartily and winked to John. After Noyes went out, he (Thomas), feeling surprised at such declarations, said to his brother, "What have you been doing?" When Hunt exclaimed, "Why, committing b——y murder, to be sure." These being words of ordinary use in Hunt's mouth, he did not believe him, and took no further

notice. Hunt then went on to say, "We have been shooting game, and Probert has been holding the bag"; he (Thomas) did not for a moment believe they had been committing murder.

In the evening he (Thomas) went again to the Coach and Horses, and saw Hunt and his brother at supper; they were eating oysters. Hunt repeated that they had been Turpin-like lads, and addressing John, said, "We must have a bottle of wine, nothing else will do now," and then laughed. He said, in continuation, "that the old woman (meaning his wife) was in a precious rage with him for stopping out all night, but when he pulled out the money she was satisfied. He gave her a sovereign, and told her to get a pair of fowls and a piece of pickled pork."

The statement then went on to detail the circumstance of Thomas Thurtell walking down to Probert's on the Sunday morning. He was overtaken on the road by his brother and Hunt, who took him up. On their reaching Edgware they met Noyes, and John alighted and joined him. He went on with Hunt to Probert's, and he observed a new spade in the gig; Hunt threw the spade over the hedge, saying, "Probert did not wish his wife to know he was extravagant."

They all dined together on that day—Probert, Mrs. Probert, her sister, Miss Noyes, Mr. Noyes, John Thurtell, and Hunt; nothing particular occurred. He remembered somebody calling on Probert and accompanying him on business to Mr. Nicholls. When Probert returned he appeared extremely agitated. He (T. Thurtell) went to bed with his children early, and neither heard nor saw more.

Mr. TETSALL'S STATEMENT.

Last Tuesday week was the first day the Thurtells came to my house. Probert, whom I had known before, introduced them. A true bill of indictment had then been found against them for setting fire to their house, and Probert urged me to become one of their bail, but I declined. They stopped for some hours drinking, and, having paid for the reckoning, went away.

On Wednesday they came again to my house; Probert and T. Thurtell then had some tea. On Wednesday night J. Thurtell came and slept at my house. I knew that they wished to be as private as possible, because they had not been able to get bail, and were keeping out of the way. On Wednesday night Probert said to me, "You have a private room, which we should be glad to have the use of to transact business which requires privacy." I told him they might have it, and, it being

prepared, they retired to it, and persons frequently visited them whom I did not know.

On Thursday they dined at my house; T. Thurtell paid for the dinner. Probert, who had exerted himself to get bail for the Thurtells, again urged me to come forward; but I told him it was very troublesome, and refused. On the Friday morning (on which night the murder was committed) T. Thurtell, J. Thurtell, Hunt, Mr. Noyes, and Probert breakfasted at my house in the private room, and paid 7s. 6d., and on the same evening, between five and six o'clock, they all left my house, and I understood that they hired a gig at Probatt's, the Golden Cross, Charing Cross. I do not know where the other gig was procured, but I understood it was Probert's.

On Friday evening T. Thurtell was at my house, and slept there the same night.

On Saturday, T. Thurtell and Noyes dined at my house, and after dinner Hunt arrived, and partook of what they had left; he arrived about three o'clock.

On Saturday night both J. and T. Thurtell slept at my house, and on Sunday morning, when John Thurtell came downstairs, he was dressed in a new pair of leather small-clothes, new gaiters, and waistcoat, with a double row of buttons on it; he then had no coat on; his shirt was open at the front, and thrust under his waistcoat collar, so that his neck was bare. He looked extremely wild; I thought he appeared like a mad-man. In this state he went out of my house and crossed the street to Collis', the hairdresser, to get shaved. On his return he finished dressing; he put on a new blue coat, and new hat, and appeared very elegantly dressed. Thomas Thurtell was in my house at the time John was dressed, and he remarked to me, "How fine my brother is to-day."

Both John and Thomas Thurtell ordered breakfast that morning; they drank only one cup of tea each; they ate nothing at all, but each of them took a glass of brandy. They had a piece of roasting beef at my house, which they said they were to take with them in the chaise that morning down to Probert's, where they were to dine. Noyes was also present at my house, and was to accompany John and Thomas Thurtell. Noyes said, "Mind the beef is taken, or we shall get no dinner when we get there."

About half-past ten o'clock on Sunday morning Hunt and John Thurtell left my house in a chaise. Hunt brought the chaise to the door. Noyes walked on two hours before, and J. Thurtell said, "We shall overtake him on the road." Hunt and John Thurtell put the beef and some clean linen in the chaise, and I remarked that a new spade or shovel was in the chaise at the time. I observed to a Mr. Price, who was in my

house when they drove off, "What the d——l can they want with a shovel on a Sunday, when they are going out in a chaise on pleasure?" I also remarked, on the Sunday morning, the contrast between Hunt's appearance and John Thurtell's. I also observed that Hunt's coat was dirty and torn under one arm, and that his small-clothes were torn by the side from the pocket. I thought, from the appearance of the back of Hunt's coat, that the wheel of the chaise had been against it, and, as he was not shaved and his clothes shabby, I said, "If I were Thurtell I would not ride with him in that condition."

At that time (Sunday morning) Hunt had not shaved off his whiskers, and he returned with Probert's boy, Jem, on Tuesday to my house, and then his whiskers were on. He left the boy, and when I saw him the same morning he was well dressed, and his whiskers were shaved off close.

John Thurtell slept at my house, and also Hunt and another man, on Tuesday night. The last person was a man about fifty years of age, pock-frecken.

On Wednesday morning an officer of police arrived and took Thurtell and Hunt; and the third person who slept in the same room with Thurtell, whose name I do not know, hastily dressed himself and left the house.

APPENDIX II.

PROCEEDINGS IN THE HIGH COURT OF KING'S BENCH, 19th November, 1823.

Mr. Chitty moved for a rule, calling on the keeper of the gaol of the county of Hertford, and the visiting magistrates of the said prison, to show cause why a *mandamus* should not issue to them, commanding them to admit Mr. Fenton, an attorney, into the prison, for the purpose of receiving instructions necessary to the defence of John Thurtell, committed to the said prison, to take his trial at the approaching assizes for the wilful murder of the late Mr. Weare. He founded his motion on the statute 4th Geo. IV. cap. 64, "An Act for consolidating and amending the laws relating to the building, repairing, and regulating of certain gaols and houses of correction in England and Wales," by section 10 of which certain rules and regulations to be observed in all gaols were ordained. One of the rules declared that due provision shall be made for the admission at proper

times and under proper restrictions of persons with whom prisoners committed for trial may desire to communicate; and such rules and regulations shall be made by the justices, in General Quarter Sessions assembled, for the admission of the friends of convicted prisoners, as to such justices may seem expedient; and that justices shall also impose such restrictions upon the communication and correspondence of all such prisoners with their friends, either within or without the walls of the prison, as they shall judge necessary for the maintenance of good order and discipline in such prison. In this case, the learned counsel said, he complained of the total exclusion from the prison of the professional gentleman to whom the prisoner was desirous of communicating instructions for his defence.

Chief Justice Abbott—The first question is whether we have the power of interfering in the way suggested, or whether the Legislature has delegated the whole power to the visiting justices.

Mr. Chitty pointed out to the attention of the Court the rules and regulations authorised by the statute referred to.

Chief Justice Abbott—Must not the rules and regulations required to be made by the statute be such as the justices shall think fit and proper?

Mr. Chitty submitted that, independently of the statute, the Court had authority to grant a *mandamus* in a case of this description, inasmuch as they had a superintending control over every gaol in the kingdom. Here the justices had ventured, contrary to the first principles of justice, to make an order denying to the unfortunate prisoner the opportunity of conferring with his legal adviser, as to the course to be adopted for his defence against a charge for an offence of the most heinous description.

Mr. Justice Best—The jurisdiction seems to be given to the justices, who are to make regulations as to the admission of persons with whom prisoners committed for trial may desire to communicate.

Mr. Chitty still urged that, without any regard to the statute in question, this Court had authority to direct what persons should or should not be admitted to the gaol. This was a case of extraordinary hardship. There was no desire to interfere with the jurisdiction of the justices in the regulations of the prison; but this was the case of a man merely committed for trial, who must be presumed to be innocent until a jury of the country pronounced otherwise, and yet the justices had thought proper to deny him the assistance of his legal adviser, to prepare him for his trial on an accusation of the most serious complexion.

Mr. Justice Bayley, after referring to the regulation, asked whether it appeared from the affidavits that the magistrates had

refused to allow any professional person to attend the prisoner in gaol?

Mr. CHITTY said the affidavit did not go that length. The fact was that the attorney of the prisoner's family, who were persons of the highest character and of some consequence in the city of Norwich, had been sent up to London for the purpose of affording him every assistance in the awful situation in which he was placed. An order had been made by the justices for the admission of this gentleman to the prison, with the concurrence of the prisoner; but inasmuch as Mr. Jay, the gentleman alluded to, resided at Norwich, and had public duties to discharge in that city which would render it inconvenient to him to remain so long from home as was necessary to the conduct of the prisoner's defence, he was desirous of assigning the task to his town agent, Mr. Fenton, a respectable London attorney, who was at the same time more conversant with proceedings of this nature. Mr. Fenton had applied to the justices to substitute his name in their order, in lieu of that of Mr. Jay, but the justices declined complying with this request.

Mr. JUSTICE BEST—The question is, does the prisoner desire Mr. Fenton to attend him as his attorney?

Mr. CHITTY said that the prisoner in his affidavit distinctly expressed his wish that Mr. Fenton should attend him, inasmuch as Mr. Jay's avocations in the country rendered it inconvenient for him to conduct the defence. The order of the justices had only authorised Mr. Jay personally to attend the prisoner; and as they had refused to allow Mr. Fenton to enter the gaol, it became necessary to make the present application. The object of the motion was for a *mandamus* to allow Mr. Fenton to visit the prisoner at all seasonable hours for the purpose of receiving professional instructions.

Mr. JUSTICE BAYLEY—You do not wish to continue the first-named party in the order, but merely to substitute the name of Mr. Fenton?

Mr. CHITTY—We only want one person to be admitted to the prisoner. Mr. Fenton is a highly respectable attorney, and the prisoner desires that he may be admitted to the gaol to receive his instructions.

Mr. JUSTICE ABBOTT—In what terms do you propose to frame your motion?

Mr. CHITTY—I humbly pray your lordship for a rule to show cause why a *mandamus* should not issue to the visiting justices and to the gaoler requiring them respectively to afford access for Mr. Francis Fenton to John Thurtell at all seasonable hours.

The Court deliberated a few minutes, when

CHIEF JUSTICE ABBOTT said the writ of *mandamus*, if it issues in the first instance, will in its nature operate, as a rule, to show

cause, if cause can be shown. We are of opinion that you had better take the writ, in the first instance, and not merely a rule to show cause why a writ should not issue; for, if cause can be shown, it may be made matter of return to the writ. You had better, therefore, take a writ, directed to the justices, to the Sheriff, and to the gaoler, commanding them respectively that due provision be made for the admission, at proper times and under proper restrictions, of the person you have named, to John Thurtell, a prisoner committed for trial, and who has desired to communicate with Mr. Fenton.

Mr. Chitty then prayed that, as Mr. Jay had seen the prisoner once or twice, and had received some communications from him, that that gentleman's name might also be inserted in the rule, in addition to that of Mr. Fenton, inasmuch as it might be important that both gentlemen should communicate with the prisoner.

Chief Justice Abbott—Be it so. The word in the statute is "persons," and I see no objection to what you suggest.

The following peremptory *mandamus* was accordingly granted:—

The Fourteenth Day of Michaelmas Term, in the Fourth Year of the Reign of King George the Fourth.

George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to the sheriff of our county of Hertford, and to the keepers of our peace and justices of our said county, being visitors of our gaol of our said county, and also to the keeper of our said gaol at Hertford, in our said county, and to every of them greeting: whereas we have been given to understand, in our Court before us, that one John Thurtell is confined in our gaol at Hertford, in and for our county of Hertford, on a charge of murder; and whereas we have been further given to understand, in our said Court before us, that one George Jay, of the city of Norwich, gentleman, one of the attorneys of our said Court, and also one Francis Tarrant Fenton of Austin Friars, in the city of London, gentleman, one other of the attorneys of our said Court, have, and each of them hath, by the concurrence and wish of the said John Thurtell, been applied to, to prepare materials and collect evidence for the defence of the said John Thurtell, for the said supposed offence; and whereas we have also been given to understand in our said Court before us, that the said George Jay, and the said Francis Tarrant Fenton have, and each of them hath, applied to you, or some of you, for their admission respectively to the said goal, at proper times, and under proper restrictions, to see and communicate with the said John Thurtell as his professional advisers, for the purpose of receiving instructions from him from time to time to prepare materials and collect evidence for the defence of the said John Thurtell against the offence of which he is so charged as aforesaid; yet you, and every of you, well knowing the premises, but not regarding your duty in this behalf, have wrongfully refused the admission of the said George Jay and Francis Tarrant Fenton to communicate with and see the said John Thurtell for the purposes aforesaid, and to make due provision for their respective admission as

aforesaid, in contempt of us, and to the great damage and prejudice of the said John Thurtell, as we have been informed from complaint made to us in this behalf; we, therefore, being willing that due and speedy justice should be done in this respect as it is reasonable, do command you the said visiting magistrates and every of you, firmly enjoining you, that you or some of you do immediately, upon your receiving this our writ, make due provision for the immediate admission, at proper times, and under proper restrictions, of the said George Jay and Francis Tarrant Fenton respectively into the said gaol, for the purpose of communicating with the said John Thurtell, a prisoner in the said gaol, committed for trial on a charge of felony and murder, who hath desired to communicate with the said George Jay and Francis Tarrant Fenton; and we also command you the said sheriff, and also the said keeper, immediately to admit the said George Jay and Francis Tarrant Fenton into the said gaol, and to continue such admission according to such provisions, or show us cause to the contrary thereof, lest by your default the same complaint should be repeated to us; and how you shall have executed this writ, make known to us at Westminster, on Thursday next after fifteen days of St. Martin, then returning to us this our writ; and this you are not to omit.—Witness, Sir Charles Abbott, Knt., at Westminster, the 19th day of November, in the fourth year of our reign.

By the Court. LUSHINGTON.

By rule of Court.

The magistrates immediately complied with the *mandamus*, and the prisoners were thenceforward suffered to communicate with their legal advisers, subject only to the usual and necessary restrictions which circumstances justified.

On the 27th of November, just as the judges were about to retire at an unusually late hour,

Mr. PLATT rose in the Court of King's Bench and presented a large and closely written skin of parchment to the officer annexed to the writ of *mandamus*. The learned counsel said this was the return of the magistrates of Hertfordshire to the *mandamus* issued respecting Hertford gaol, and prayed that it might be read.

CHIEF JUSTICE ABBOTT—Have the magistrates obeyed the writ?

Mr. PLATT—Yes, my lord, they have; but they wish——

CHIEF JUSTICE ABBOTT—If they have obeyed the writ, why do they make any return?

Mr. PLATT—My lord, they are anxious to state the reasons of their conduct, and they have set them forth at length in this return. Imputations have been cast on them, and they are desirous of showing that they are groundless.

CHIEF JUSTICE ABBOTT—No imputation has been cast on them in this place.

Mr. JUSTICE BEST—I am sure I cast none.

Mr. PLATT—No, my lord; but their conduct has been impugned, and therefore I thought it my duty to move it.

Chief Justice Abbott—The magistrates have obeyed the writ, and therefore we can hear no return. It is not necessary to the purposes of justice.

The return was not read, and the judges soon after left the Court.

APPENDIX III.

MOTION FOR A CRIMINAL INFORMATION AGAINST THE PROPRIETOR OF THE SURREY THEATRE.

(19th November, 1823.)

Mr. Chitty (addressing the Court) said that it was of importance that the motion which he was about to submit should be made as early as possible, for the purpose of checking a most scandalous proceeding, as it respected the due and impartial administration of justice. He was instructed to move for a criminal information against the proprietor and printer of the Surrey Theatre, for an indecent and unlawful excitation of the public mind, by representing, in a dramatic form upon the stage, a tragedy, founded on the supposed incidents of the late dreadful murder.

The proprietor of this theatre had presumed to personify upon the stage the actors in the late alleged murder; he had introduced upon the stage persons representing John Thurtell and the deceased Mr. Weare; had exhibited the identical horse and gig in which Mr. Weare was supposed to have been driven to the scene of his death, and had actually given a representation to the public of the supposed murderer. A gentleman of great respectability, whose affidavit he had, deposed that he had attended the theatre last night, and saw this shameful exhibition displayed to a crowded house; that it produced extraordinary excitation, and such applause as was disgraceful to a British public professing the feelings of humanity and boasting of its justice. He need not suggest to the Court the atrocious and monstrous indecency of such an exhibition, calculated, as it was, to destroy all hope of a fair trial of a human being perfectly innocent until the verdict of a jury declared otherwise, and whose life was placed in jeopardy by this and other extraordinary proceedings taken for the excitement and gratification of public curiosity.

Chief Justice Abbott—How do you connect the party against whom you move with the transaction?

Appendix III.

Mr. Chitty—My lord, I have an affidavit that one of the persons has admitted himself to be the proprietor of the theatre; and I also move against the printer of the play-bill announcing the disgraceful representation, his name being attached to the bill.

Chief Justice Abbott—Take a rule to show cause.

[On the 24th of November Mr. Denman and Mr. Barnewell, on behalf of the proprietor, and Mr. Marryatt, on behalf of the printer, appeared to show cause against the rule, obtained by Mr. Chitty on the 19th. The matter underwent a long discussion, and ultimately the rule was discharged as far as related to the printer, and made absolute with regard to the proprietor and manager of the theatre.]

APPENDIX IV.

PROCEEDINGS AT HERTFORD.

First Day—4th December, 1823.

Charge to the Grand Jury.

The assizes for the county of Hertford commenced on 4th December, 1823, Mr. Justice Park and Mr. Justice Holroyd presiding.

After the grand jury had been chosen, Mr. Justice Park proceeded to deliver the following charge to the grand jury:—Gentlemen of the grand jury, we are assembled here, at this unusual season of the year, under His Majesty's Special Commission of Oyer and Terminer and General Gaol Delivery, for the purpose of trying such offences as have taken place in this and the neighbouring home counties since the last summer assizes. In this service it becomes our duty to discharge one of the most important functions which can belong to us as members of civil society, namely, the administration of criminal justice. The present appearance of the gentlemen whom I am now addressing satisfies me that His Majesty's wisdom in issuing these commissions will never be frustrated, as frustrated it would undoubtedly be if ever the time should come when the administration of justice was not attended by gentlemen of the first dignity, rank, and respectability, because such an event could not but lessen the administration of justice in the eyes of the common people of England. Nothing can be more

important and more essential to the interests of the community than that the administration of justice should be maintained in its purity by the countenance of all honourable and respectable men.

Gentlemen, the calendar now presented to us contains undoubtedly a considerable number of offences. I am sorry to observe a great number of crimes of various descriptions set down for trial. What the result of these trials may be, gentlemen, it is not for me now to judge. Notwithstanding the number and the variety of these offences, they are not in general of such a nature as to render it necessary for me to address to you any particular observations. I am sorry to say that they are, for the most part, such offences as you and other magistrates are weekly and, I am almost afraid, daily occupied in investigating; and the principles of law applicable to such cases are probably as well known to you as they are to my learned brother and myself. I need scarcely add that, if any difficulty should arise in the progress of your investigation of these cases, and you should wish to make any inquiry, my learned brother and myself will most cheerfully and readily afford you our assistance.

There is one case, however, on which it is necessary that I should say something, because I understand it has made a considerable noise in the world. When I say this, I do not say it idly, for I can assure you with truth that I have seen nothing connected with this case except the depositions which were sent to me when I was appointed a judge of this circuit, and that I have most cautiously abstained from reading one single word which has appeared in any of the public prints. I for one, therefore, may say that, as far as any previous opinion of the case is concerned, a more impartial person than myself never entered a Court of justice.

I feel it necessary to make a few preliminary observations on this case with a view to future circumstances. The language of reproach is never pleasant to me; it is hostile to my feelings; but in administering the justice of the country I have a duty to discharge which is paramount to all personal considerations. These depositions have, somehow or other, as I have been informed, been copiously dispersed by means of the public press. The fault certainly originated, though I have no doubt most unintentionally—and I beg not to be understood as throwing out any personal reflection on the conduct of any gentleman—but the fault certainly originated in the magistrates allowing any person whatever to enter their private room during the investigation of the matter, and to take notes of the case. I hold—and I believe I shall be borne out in what I say by my learned brother—that there is a vast difference between the inquisi-

torial and the judicial power of a magistrate. Where a magistrate is acting judicially, he is liable, like all other judges, to be heard and judged of himself. For my own part, I may truly say that I wish my judicial opinions to be examined with all possible freedom. I trust that I always mean to do what is right, but I am aware that I am continually in error, for no human being can doubt that he errs continually, because he is a human being. When a magistrate, however, is inquiring into a crime, to say that all the depositions in such a case should be published generally to the world is a proposition which cannot be listened to for a single moment. It is his duty to investigate, to inquire; and the statute law prescribes a rule for his conduct in the discharge of that duty.

The statute of Philip and Mary, which was passed upwards of two hundred and fifty years ago, requires that all examinations before magistrates, in cases of murder and felony, shall be taken in writing, and transmitted to the judges of Oyer and Terminer. The constant practice with respect to these depositions has been to transmit them directly to the judges, and the party accused or his advisers have never been permitted to see them. The depositions have been subject to the inspection of the counsel for the prosecution, and to the officer of the Court, as well as to the judges, but they have always been religiously kept from the observation of the accused.

The consequence of the publication of this evidence is that the accused party knows all that will be produced against him at his trial, and the object of sending the depositions to the judges is in this manner entirely defeated. It occurred to me, while the oath was being administered to the grand jury, that there was another strong argument to show the importance of reserving the depositions for the use of the judges and the prosecutors; the grand juryman swears to keep the King's counsel, his fellows', and his own secret; but by the publication of the depositions all the evidence is published before it comes to his knowledge. This never can be right under any circumstances. I have said this much because I am most anxious to preserve the purity of justice, and because, highly as I esteem the liberty of the Press, I hold the trial by jury as a palladium of British liberty in still higher veneration; and I am convinced that that palladium can only be maintained in its purity as long as the administration of justice continues pure and uncorrupted.

I mean not to say that the administration of justice has been affected by this proceeding; but it may be put in danger. It is a proceeding which is not only dangerous to the accusers, but it may be so to the accused. Of this I am quite sure, that it is a proceeding most injurious to the administration of justice, and

calculated most materially to impede its course. It imposes upon judges the necessity of addressing even gentlemen of your high character in the country with unusual energy, in order to prevent any improper bias either on the one side or on the other.

The publication of evidence is, upon the whole, however, more favourable to the accused than to the prosecutor, because it gives the accused the benefit which the law of England never contemplated, namely, an opportunity of knowing beforehand the points which may be brought in evidence against him on his trial. Whether this may be beneficial to one of the parties, or disadvantageous to either or both of them, I will not pretend to decide, but I am quite satisfied that such a proceeding is highly blameable.

In conclusion, I have no difficulty in stating my opinion to you, in the hearing of my learned brother—and I believe my opinion is sanctioned by the authority of the judges of the Court of King's Bench, and by that of all the judges who have sat on the bench during the last century—that to print evidence *à priori* on a criminal case, which is to form the subject of inquiry in a Court of justice before a jury, accompanied with notes and comments, is a high crime and misdemeanour, punishable, on conviction, by fine and imprisonment. Such, according to my firm belief, is the law of the land with reference to this point. There was one piece of evidence in this case, which, as I have been informed, was published, and of which I cannot but consider the publication as most unadvised. I do not wish to make any harsh observations, but I cannot help remarking that the public themselves have in some measure occasioned this mischief. There seems to be a pruriency and an appetite for news among the people of this country, such as characterised the Athenians of old, who, as the Grecian historian informs us, were always desirous of reading something new. In fact, they seem to be never satisfied unless they are absolutely glutted with things of this sort. The piece of evidence to which I have just alluded is, as I understand, a confession of one of the prisoners; and a very little reflection will enable people to see the mischief which must arise from the publication of such a document. A confession is, of all other things, that of which it is impossible to say, until the period of trial, whether it be or be not admissible in evidence; and nothing therefore could be more unadvised, independently of its illegality, than its premature publication.

I shall say no more on this subject at present; but I trust that what I have said will induce gentlemen to reflect on the consequences of a practice which they have permitted, I have no doubt with the best intentions, but from the continuance of which much mischief would arise to the administration of justice.

Appendix IV.

Gentlemen, the case which has drawn from me these observations is a charge against a person named John Thurtell, and against two other persons, named Joseph Hunt and William Probert, as accomplices, for the crime of murder—a most awful crime, under whatever circumstances it may have been committed, but which appears to have been committed in this case under circumstances of peculiar atrocity.

What the intention of those who prosecute in this case may be—whether to indict all three of them as principals in the first degree, or to indict some of them as principals in the second degree, or as accessories before or after the fact—I cannot tell. With respect to the three first descriptions of crime, as committed by principals in the first and second degree, and by accessories before the fact, although the form of stating the offences is somewhat different, the legal result to the individuals, if convicted, is the same. A principal in the first degree is the person who actually commits the murder; a principal in the second degree is a person who is said in law to be aiding, present, assisting, and comforting the principal in the first degree. If a man, by keeping watch and ward so as to prevent intrusion, or in any other manner aid and assist in the murder, though he be not the person who struck the blow, he is equally guilty with the principal in the first degree. An accessory before the fact is he, who, though not on the spot where the murder is committed, yet by his advice, counsel, or command beforehand, assists in the crime. An accessory after the fact is he who, after the fact has been committed, knowingly receives, harbours, and entertains the principal felon or felons. Under which of these descriptions the parties may be indicted in this unfortunate case I am unable to tell you, for it is not my province to know.

The murder appears to have been one of a very dreadful kind, and to have been committed under circumstances of horrible atrocity by some person or other. The evidence in this case, as in most cases of murder, consists of a chain of circumstances; the murder is not proved by positive facts, for men do not commit these horrible crimes in the face of day; they commit them in secret, or at least imagine that they commit them in secret, forgetting that His eye sees them from whom no secret is hidden. It is only therefore by a chain of circumstances that you can get at the evidence of such crimes, and I need not observe to men whose minds are habituated to reasoning, that circumstantial evidence is much more satisfactory than what is called the positive testimony of one or two witnesses. Circumstantial evidence establishes similar results by a variety of facts, trifling, perhaps, when separately considered, but important, as they conduce to the same end;

and it is scarcely possible that the evidence of thirty or forty persons on apparently unimportant particulars could chime in so as to produce a chain of proof consistent in all its parts, and establishing the main question of guilt. In this respect circumstantial evidence is much less liable to error or suspicion than the direct testimony of one or two individuals.

There is one circumstance which I observed on reading the depositions, to which I beg leave to direct your particular attention. I understand that a person has either been removed hither, or is about to be removed hither, to give evidence on this subject before you and the petty jury. I have read the deposition of this person, who is a female of the name of Probert, and, as I understand, the wife of one of the persons accused. I have no difficulty in stating that if all these three persons are generally indicted for one and the same offence, this woman, if she be the wife of one of them, cannot be called as a witness, either to convict her husband on the one hand, or to exculpate him on the other, because the law of England on a principle of policy will not allow a woman to be a witness either for or against her husband. I am afraid, gentlemen, you will think I have detained you too long, but I was anxious to make your minds easy by explaining every circumstance which might possibly create a difficulty in your investigation of this case.

I will merely add that you, as the grand jury, are not called upon to try the truth or falsehood of the charge; you are merely to try whether it be a fit and probable case to put these persons on their trial. If you, as a grand jury, were to hear the evidence *pro* and *con*, you would be taking upon yourselves a function which the constitution does not empower you to take; you would be usurping the functions of the petty jury, who are to be empannelled before me, and who are to receive the benefit of my directions, if any benefit can be derived from my directions. Having addressed these few observations to you, gentlemen, I have now only to request that you will retire to expedite the business of the country.

Admission of Probert as King's Evidence.

Mr. Broderick, one of the counsel for the prosecution—My lord, I am instructed to move your lordship for an order to carry William Probert, one of the persons charged with the murder of William Weare in the month of October last, now in the custody of the gaoler of this county, before the grand jury, in order that he may give evidence touching the circumstances of that offence. My lord, I do not make this application expressly on my own responsibility, but I am fortified by the opinion of a person much better able than myself to come to

a right conclusion on the subject—I allude to the individual to whom the management of the prosecution has been confided. Mr. Broderick repeated that it was thought essential to the ends of justice that Probert should be admitted a witness for the Crown, and on that ground only the motion had been determined on. There were many circumstances which it was not then necessary to state, which rendered this course necessary.

Mr. Justice Park said he knew nothing whatever of the circumstances of the case; but certainly, upon the application made, the order in question should be granted, and Probert should be taken before the grand jury.

[The Clerk of the Assize then proceeded, in obedience to his lordship's desire, to prepare an order for Probert to be carried before the grand jury.

On the foreman of the grand jury coming into Court shortly afterwards, with some fresh bills, his lordship informed him of the order which he had made, and intimated his wish that they should at their earliest convenience proceed to the consideration of the bill on which evidence had been considered material.]

Finding of the Bill.

About nine o'clock in the evening the grand jury had completed their important task, when, pursuant to the directions given by Mr. Justice Park at the rising of the Court, they were conducted by the officers in attendance to that learned judge's lodgings, where they delivered, by their foreman, the bill of indictment as a true bill against the two prisoners Thurtell and Hunt.

Second Day—5th December, 1823.

Arraignment of the Prisoners.

Mr. Reynolds, the crier, having made the usual proclamation in opening the Court.

Mr. Knapp, Clerk of Arraigns, read the indictment on the bill found by the grand jury.

To the ordinary question put as to the plea, Thurtell, in the ordinary tone of voice, answered—Not guilty. How will you be tried?—By my God and my country.

Hunt, on the question being put, answered in a more emphatic manner—Not guilty, my lord. How will you be tried?—By my God and my country.

Thurtell, Hunt, and Probert were then arraigned on the inquisition of the county attested by the coroner—to which all pleaded not guilty.

MOTION TO POSTPONE THE TRIAL.

Messrs. Adamthwaite, Jay, Fenton, and Helme were sworn to a certain affidavit on which it was intended to ground an application for the postponement of the trial.

Mr. ANDREWS then rose and addressed the Court. He said that it was his duty to put in an affidavit on the part of the prisoner Thurtell, which had been sworn to by his solicitor, and concluded by moving that such affidavit, with its exhibits, &c., be received.

Mr. JUSTICE PARK ordered the affidavit to be received, and Mr. Knapp proceeded to read it to the Court.

It was a very long and circumstantial statement, and commenced by describing the impediments thrown in the way of the communication between the prisoner Thurtell, and his professional advisers; referred to, and quoted at great length, certain paragraphs and statements in the newspapers; narrated the particulars of the drama produced at the Surrey Theatre; complained generally of the publication of the evidence given before the magistrates at Hertford and the coroner's jury, and particularly of the confession of Hunt; and insisted upon the falsehood of many statements relative to the prisoners, which had appeared in newspapers, books, and pamphlets, all of which had been widely circulated in the county of Hertford and elsewhere, until the circulation of such books and pamphlets had been put a stop to by a rule, or a criminal information in the Court of King's Bench.

From these premises the deponents felt themselves at liberty to infer that so strong a degree of prejudice had been excited by means of the public Press and the stage against the accused parties that no jury could be found at the then present moment whose minds were sufficiently unbiassed and free from prejudice to afford the prisoners a real and impartial trial, consistent with the true spirit and meaning of our laws, which presume every man to be innocent until he is found guilty.

When in reading the affidavit the clerk came to that part which had a reference to the ordinary communications of the daily Press in cases where sanguinary murders have been undoubtedly committed and the body of the murdered individual had been discovered——

Mr. JUSTICE PARK interposed. You are aware, Mr. Andrews, said he, that I am ignorant of the contents of the remaining part of that affidavit, but from the reference of the last paragraph, I am persuaded it alludes to newspaper publications, and that a quotation of those articles is about to be read. Before that communication is recorded, I would submit to your own excellent understanding, aided by the able counsel that co-

operate with you, whether or not the very course you are about to pursue is not likely to aggravate the very evil of which you complain. I know not what others may have done, but I can most satisfactorily assure you that there is at least one individual in this Court who has not read those statements. I think also that I may presume to go further, and say, that amongst that respectable portion of persons who have been impannelled on the array in this county there are many who have not read them, and who are free from any alleged prejudice or preconception. I yesterday, in my charge to the grand inquest of this county, stated my opinions as to the legality and effects of these publications. Whether the present application grounded on such affidavit be to put off the trial or not, or whether it will be postponed, I of course am at present ignorant of; but I would again renew my recommendation to the able counsel for the prisoners to consider the possible effect of having these extracts read. You will consult together, and no doubt exercise a wise discretion.

Mr. Andrews—I have, my lord, consulted with my learned friends, and after the most mature deliberation when first we met on this subject—an opinion to which, with every feeling of deference to your lordship's recommendation, we feel it our duty to adhere—we must press the reading of this affidavit.

Mr. Justice Park—Very well. Proceed with the affidavits, and let the responsibility fall where it ought.

Mr. Andrews—As the affidavit, with its exhibits, is now before the Court, it becomes my duty to address myself to your lordship. It is evident from the extracts adverted to in that affidavit that in a country where the purity of the administration of justice is unsullied, and the conduct of those who administer it beyond suspicion, an endeavour has been pertinaciously, and I fear too successfully, made to have that administration and conduct assailed, and the maxim of our pure discharge of duty grossly endangered. The effect of such a steadfast and unceasing influence upon public opinion must inevitably be to create impressions and preconceptions which go to defeat that dispassionate inquiry. It is most true, that though it was impossible such efforts could have an influence on the mind of a man holding the dignified rank and enjoying the reputation of your lordship, yet the experience of every day, nay, of every hour, must satisfy every mind that from the infirmity of our nature and the inherent curiosity of mankind on questions arising out of such calamities as that for which we are this day convened in this Court, impressions must have been created, through such means, on the minds of the great body of the people, and it was as lamentably certain that when once these preconceptions were entertained it was almost impossible to

have them obliterated. There was an avidity in the ordinary classes of society for such information; they were, as it were, hungry, nay, greedy for details on such subjects; and, however originally gratified, the difficulty of removing the original impressions was insurmountable. The murder alleged to have been committed took place on the 24th of October last, and yet from that hour the public Press—not for a day or a week, but up to that hour—teemed with excitations on that lamentable event, and the unhappy prisoners, without trial or investigation, were prejudged as guilty. What the magistracy of the county dare not assert—what they would not dare to allow to proceed from their investigations, the public Press had not alone dared to publish, but also to add their own comments. Not satisfied with limiting their efforts even to the reports of legal examinations (a right extremely questionable) they ventured to the extent of passing their own comments upon the circumstances, filling up, as it were, the skeleton of these preliminary inquiries by their own conclusions, and, in so doing, were guilty of a misdemeanour at law. Under the circumstances to which I have adverted, and from the statements set forth in the affidavit before this Court, I am warranted in saying that a jury taken from the great body of the people must come to the decision with disordered, nay, poisoned minds against the prisoners at the bar. It is a principle of British law that where a satisfactory ground can be shown for the postponement of a trial, delay will be granted. Have I not pointed out reasons sufficient to ground my application for such delay in the present instance? It is sworn by the prisoners' solicitors that upwards of 10,000 of these wicked publications have been circulated in the county of Hertford. Have I not shown to you that at the late residence of one of the prisoners, where the murder is alleged to have been committed, persons were stationed, who, with an industry set in motion by their sordid desire of gain, dispersed those wicked publications to all that multitude of persons who, whether influenced by curiosity or indignation against the accused, visited that place. What, I ask, must be the effect of such unremitting efforts on the public mind? Has human nature so altered that we should be justified in saying such causes must have not produced their corresponding effect; and that, on an occurrence which excited such intense anxiety, a strong prejudice against the unhappy men at the bar has not been created? My lord, I feel I can appeal to you, and ask with firmness, what stronger grounds could I lay before you to ask for further time?

Mr. Justice Park—When?

Mr. Andrews—I say for postponement to the next assizes; but it is not for me to limit the time. I appeal to your sense of

justice to grant that delay which I feel confident a sense of justice alone will limit. I say, to proceed under the circumstances to which it is my painful duty to advert, the unhappy prisoners at the bar are placed in a state of jeopardy. I would beg your lordship to remember what has happened to these men since their imprisonment, up to the 20th of November; they have been shut out from the advantage of professional aid. I will not complain of the conduct of that respectable magistracy, who no doubt felt they had good and excellent reasons for their conduct on that point. It is sufficient for me to say that such was the fact. When to this I superadd that not only numerous publications, but even a dramatic representation has been presented on the stage—that infamous placards have been posted in the streets, and printed in letters calculated to catch every eye, and couched in terms which could not but have the effect to hold up the unfortunate men at the bar as objects of horror, there seems to me reason, ample reason, for postponing this trial. In this very town of Hertford, where justice was to be administered, at the very threshold of the sanctuary of justice, the public mind has been polluted; hundreds of placards and bills had been circulated; facts had been distorted, wrong views of the case presented to the minds of those very persons who were to form the jurors on this important trial; and who could say what effect this might have on the fate of the uphappy men at the bar? Can your lordship tell who, of all those who have been called on as jurors, have had their minds polluted, or are in a fit state to enter on this inquiry? How can it be known, when the poison has been so extensively circulated, what minds are free from the taint? When the whole community appeared to have been hungry for information, and when the appetite had been gratified with such quantities of ill-grounded statements, what reason was there for believing that men could be found in any part of the country free from prejudice against the prisoners? One of the ablest statesmen and philosophers that ever lived had said, "Let a man be told the same story every day of his life for a year, and though he might at first regard it as totally false, he would come at length to believe it." Let this maxim of Mr. Burke, which is applicable to all the affairs and concerns of life, be applied to this trial and to the circumstances I have mentioned, and how fearful must be the consequences we shall have to apprehend? One man may be better able to read than another, or than many others, and such a man, the orator of the company, fearfully impresses the minds of all his hearers with his own exaggerated impressions. There can be no doubt, my lord, that by this mode the statements which have been published have been repeated and exaggerated beyond calculation. The weakness of

human nature is so great that it is easily imposed on, and the general extension of prejudice on this subject is also so great that there is in this single circumstance sufficient ground for delaying the present trial till it can be entered into with some probability of coming to a just and impartial verdict. Never since I have been acquainted with the profession has a case of this kind been so strong as the present. Never do I recollect a case in which the Press has done so much mischief as in this; and never was a case, should this trial now be proceeded in, brought forward under such circumstances of extraordinary irritation against the prisoners; and never was there a case in which the course of justice was so little likely to be deranged by delay. It is not to be expected from those who are to act as jurors on this occasion—not that I impute this to them as a fault, or suppose it arises from any improper motives—but it cannot be expected from them, that when all the society and all the people around them are in a state of excitement, that they should remain free from all bias, and be in a state of calm neutrality. Even your lordship, with a much stronger understanding, and more enlarged experience—with a mind strengthened by education, has found it necessary to abstain cautiously from reading the various publications which have appeared on this event. What, then, is to be expected from the jurors, who cannot be philosophers, or have their minds enlarged like that of your lordship? What, but that they will have received many of those unfavourable impressions which have been so industriously circulated—when their minds, their reading, their habits, are not so formed as to keep them from above the influence of such impressions, however anxious they may be, as undoubtedly they are, to discharge their duty honourably and honestly? Delay will furnish no dangerous precedent, and will be subversive of no settled rules of law. But what do I ask? Only the delay of a few months. And can public inconvenience or public mischief be caused by this delay? If it were said that there were in the nature of this atrocious crime reasons for more speedily punishing it than ordinary crimes, I can only say that I hope no such cases will again occur; and I am sure that if they do, delay in this case will be no precedent for not punishing them. It is not probable either that in such cases similar publications will take place, or similar exhibitions will be made, or that the Court will be put into a state similar to the present. No danger can result to the administration of justice from delaying this trial; and I am quite sure that my learned friends on the opposite side will not have any sufficient reason to object against the application which I have, in the course of my duty, made to your lordship.

Mr. Platt followed on the same side, and said it was not

enough in the administration of justice that a criminal should be punished or an innocent man acquitted; but it was also of essential importance that the public should be satisfied as to the propriety of the condemnation or the acquittal. In his view of the case it was not necessary to prove the necessity for delay, it was enough if he could show that no danger to the due administration of justice would result from it. He had little occasion, therefore, to refer to the garbled statements which had appeared in the public prints, or to the indecorous spectacles which had been represented on the public stage. In fact, however, he had never before heard of such a quantity of garbled statements, he believed so many were never before published in the short space of three months. It was a sufficient reason for delaying the trial also that the prisoners, from some cause or other, had not had access to their professional advisers. On this ground it was right to postpone the trial, that the public might be satisfied, and their feelings not, from a semblance of injustice, be enlisted in favour of men who might be guilty of crime. On application for the *mandamus*, and on application for the injunction against the printing and publishing, as well as against the theatrical exhibition, and the more shameful posting up of bills, the Court had granted them immediately, showing that there was matter in these things for serious apprehension. The other side also might suffer from the haste which the present application was intended to prevent. The publications on which the application was founded had been dispersed in great numbers through the whole country; 5000 at least of one work had been circulated in this very county. No jury could at present be found either in this county, or perhaps in the whole kingdom, quite free from improper impressions, and it was surely exposing the administration of justice to serious danger now to bring forward the trial. His lordship knew if this trial were now to take place, and the unhappy prisoners were found guilty, their execution would be certain. The crime of which they were accused was one for which no pardon was granted, no respite made. In proportion, therefore, to the certainty with which the punishment followed the condemnation, ought the public to be satisfied that the prisoners had received a fair trial, had been fairly and fully convicted; and as this could not now be expected, it was necessary that the trial should be postponed.

Mr. Chitty followed on the same side, and began by stating that the great excitement of the public mind made it very difficult where to draw a line, and to say, not when the effects of the poison would cease to operate, but to what limits it had now extended. What he asked, too, had been frequently granted, and granted in very recent cases. In the case of

The King v. *Fleet*, which was the case of an injunction against a printer for publishing the report of a coroner's inquest. In this case it was not objected that the report was unfair; it was consistent with truth, and was accompanied with a comment that the juries should take care not to allow their minds to be biassed by evidence which was wholly *ex parte*. In this case the judge had decided that it was highly illegal to publish such statements. On that occasion the Lord Chief Justice had stated that every man who attended to the operations of his own mind must perceive how very difficult it was to overcome the influence of preconceived opinions, and that it was still more difficult wholly to eradicate them. It was therefore necessary to protect the jury from the influence of all statements before trial. But if it is mischievous to publish statements before trial, it is still more mischievous to accompany *ex parte* statements by comments. That such statements and such comments had been largely made in the present case was therefore, according to the decisions of the learned judges, a good reason for postponing a trial. There was still another case to which he would refer—a case that, in his opinion, was particularly strong, because the prosecutor's own counsel moved to have the trial postponed on account of the minds of the jury being impressed with *ex parte* statements. This was the case of *The King* v. *Jolliffe*. This was a trial for misdemeanour, where the trial was postponed on the ground of publication of certain statements which, as far as was proved, never fell into the hands of the jury. That case had been decided by Mr. Justice Gould. It was proved that the prosecutor had circulated three printed papers in which he had endeavoured to prejudice the case. They were given by the prosecutor into the hands of one person, who gave them to two other persons without ever having read them himself. Judge Gould was of opinion that this was sufficient ground for postponing the trial. Lord Kenyon had also concurred in this opinion.

Mr. Justice Park—Suppose the trial were now to be postponed, should we not then hear the same objections, and be obliged to choose a jury from the same neighbourhood, who would also be under an improper bias?

Mr. Chitty would leave it to the justice of the jury, and to their own feelings, and he was sure they would say—For God's sake let it be postponed a month or longer; but let us not be put in the perilous situation of hearing and deciding so important a cause with our minds prejudiced and liable to commit injustice; the very thought might endanger the course of justice in another way, and the jury might, under the influence of fearing to do wrong, pronounce an acquittal. It was important, then, for the satisfaction of the public, as well as in justice

to the prisoners, and for the due administration of justice, that the trial should be postponed till an impartial jury could be obtained. It had been stated, for example, of John Thurtell that he had walked about with an air-gun to shoot Mr. Barber Beaumont. Could this be borne with patience? Could it be suffered that he was to be accused of all sorts of crimes? Conspiracies to commit murder on a large scale had also been attributed to John Thurtell; he had been represented as addicted to women; and conversations had been published, as held by him in prison, which were of the most revolting nature. Under all these circumstances, everybody must be convinced that it was impossible the prisoners could now have a fair trial. The learned counsel concluded by imploring the judge, for the sake of justice as well as humanity, to postpone the trial till the excitement and the novelty were over.

Mr. GURNEY said that he appeared as counsel for no one of the parties concerned in the transaction, but on the part of the county, and what few remarks he had to offer would be entirely dictated by his duty to the justice of the country. No ground for postponing the trial could be more fallacious than that first stated by his learned friend, as to John Thurtell not having had time sufficient to prepare his defence. If the application had rested on that alone, it would have been untenable. He was committed on the 1st November, five weeks ago; on the 12th an application had been made by Mr. Jay to have access to him, and between the 13th and 16th Mr. Fenton had applied, not asked for, however, by Thurtell; he wished not for Mr. Fenton, and did not at the time complain. The *mandamus* applied for in the Court of King's Bench, to admit Mr. Jay, was instantly granted; and there was no reason whatever for stating that John Thurtell had not received professional assistance in time now to enable him to stand his trial. Another ground of complaint was the admission of witnesses, by magistrates, to identify the prisoner, by which he had been disturbed and prevented from preparing for his defence; but a more improper objection could not be made. It was kind to him to inform him what witnesses could be brought against him, and what they would have to say against him. He came then to another important point; and he would say that he had read many of the publications alluded to with great attention, and certainly thought they were well calculated to defeat the ends of public justice and make the trial, whatever might be its results, less satisfactory. There could be no doubt that the *ex parte* statements published in this case of murder aggravated it to the highest degree. He blushed for England and for Englishmen that when this murder was represented they had not hissed the actor off the stage for exhibiting a man as guilty

who was yet unconvicted. He would admit, therefore, that the public feeling was in a state of excitement; detail after detail had been published, and each one more disgraceful than the preceding. He should not be fulfilling his duty had he not made these few observations; but he felt, after doing that, it was his wisest course to leave the matter entirely to the judgment of the Court. It was a subject of great importance, demanding calmness, temperance, and attention on the part of the jury; but he would leave it entirely in his lordship's hands, and would offer no suggestions whether it should be put off for a month or till the next assizes.

Mr. Andrews, in reply, said that it was most gratifying to him to find that his learned friend Mr. Gurney was, in fact, an advocate in support of the arguments which he, Mr. Andrews, had endeavoured to enforce. So far from struggling against the mass of facts which he had brought forward, his learned friend admitted that mischief had, to a certain extent, been produced, and that under all the circumstances, the trial could not proceed without danger to the individuals accused—a danger arising not from corrupt motives, but from the necessary consequences of the publications which had gone forth to the world. The main question was, whether such an effervescence of the public mind had not been excited as must necessarily have the effect of impeding the due administration of justice. The affidavits which had been read that day spoke for themselves. Four gentlemen had sworn that at the moment of taking the oaths their intercourse with the county satisfied them that such a strong feeling against the prisoners existed among all classes of persons as it was scarcely possible for human reason to subdue. This was the natural result of that moral feeling which marked the English character, and which induced the people of this country to desire the extermination of those who were only charged with the commission of so foul an offence. The effect of these publications was, by commenting upon former transactions in which the accused were concerned, not connected with the present charge, to create an impression that they were men of such desperate character that they deserved to be hanged even without the ceremony of trial. Hunt's confession, as it was termed, had been published, which, if the charge against that individual had proceeded at once to trial, could not have been received as evidence against him, and which his lordship would not have even suffered to be alluded to. It was impossible that any mind could escape the prejudice which must arise from such publications; and the only means by which that prejudice could be removed was by affording time for reflection. He asked only for a delay of three or four months, or for such delay as his lordship might grant consistently with the duty

which he owed at the same time to charity and to public justice. He appealed to the justice and to the mercy of his lordship; he knew the character of the judge whom he was addressing. Fortunately for him and for his clients, he was addressing not only a learned and enlightened judge, but a judge whose religious feelings were as strong as his learning and ability were unbounded. By acceding to the present application, his lordship would adorn the administration of British justice, if it were possible for him to add to his already exalted character; he would perform a service alike acceptable to God and man.

Mr. Justice Park—This is a motion, founded on a very long affidavit, upon two grounds. The first of these grounds, namely, that sufficient time has not been afforded to the prisoners for preparation, cannot be sustained. Much more time has elapsed, as is well known to most of the gentlemen around me, than is generally afforded to prisoners. In one of the most foul murders on record, the crime was committed on Monday, and on the Monday following the culprit was executed. The application on this ground fails in every respect, for it is not suggested in any part of the affidavit that any one witness has been prevented from coming forward in behalf of the prisoners in consequence of the shortness of time. I shall not therefore concede to the present motion on that consideration. Many judicious observations have been made by the learned counsel for the prisoners, but some cases have been cited which certainly do not apply to the circumstances of the present case. This must be obvious to every man who has read a law book, or who is acquainted with the cases which have been cited on this occasion. The case of *The King* v. *Fleet* was an application against a printer, or editor of some paper, for having violated the law in this respect. The Court did that which it was bound to do on that occasion, namely, it made the rule for the information absolute. *The King* v. *Joliffe* was a case in which the trial was put off, on the motion of the prosecutor, in consequence of attempts to influence the minds of the jury against the prosecutor. With respect to the publications which have been read this morning, I must say, without meaning offence to any particular individual, that it does not seem to me a very wise measure, if this trial were to proceed, to have brought all these papers under the review of the jury. Suppose the minds of the jury to have been tainted a month ago by these publications; or suppose a stronger case, that they had never heard of these publications, was not the reading of the affidavit to-day calculated to renew the impression in the one case, or to produce a still stronger effect in the other? For my own part, I must say that this affidavit has given me a much greater insight into the case than the depositions which it was my duty to read, and

which are now lying before me. I stated yesterday, and I repeat to-day, that I consider nothing more disgraceful than publications of this nature. I stated yesterday, and I repeat the observation to-day, that I consider trial by jury the palladium of English liberty, and that this palladium ought, above all things, to be preserved pure and uncorrupted. If such a licentious pruriency exist among the public to run after something new, and if publications, which appear to have such enormous circulation, are to poison the sources of justice whenever the editors think fit, the palladium of English liberty is endangered. The enormous expense which will be entailed on the prosecutors by the postponement of this trial is a very serious consideration; for I observe on the back of this indictment the names of no fewer than fifty-five witnesses who were to be brought here to-day. Still, God forbid that any consideration of expense, or any additional difficulty and labour which may be imposed on those who administer the justice of the country, should induce me to refuse an application the denial of which might operate with undue severity in so important an issue as that which affects the lives of the men who sit there before me. I have no appetite to try such a case as this; but I never wish to throw any duty I may have to discharge on the shoulders of others. Though I think therefore that I am bound to put off this trial, I shall not so put it off as to throw a burthen upon others which is this day imposed upon me. The same difficulties which we have now to encounter, and the same prejudices which may have been excited in the minds of the jury, may exist at the next assizes. It is of the deepest importance to society that justice should be speedily administered, and I shall not therefore put off this trial to so long a period as the next assizes. If these men be innocent, and God grant they may be so! it is fit that they should have a speedy deliverance. I do hope and trust that something may be done to prevent a recurrence of this mischief. The three evils to be particularly guarded against are those to which I adverted yesterday. First, such publications tend to injure the accuser in a manner which I do not choose to represent; secondly, they may tend to injure the accused; and thirdly, they may sometimes, as on the present occasion, give an undue advantage to the accused, or rather to his advisers, by affording him an opportunity of knowing everything which may be brought against him on his trial. What I most deeply lament and complain of is that I should be under the necessity of doing that to-day which my brother Holroyd was lately obliged to do in the city of York. Justice has been impeded and retarded. This is a thing which ought not to be tolerated; and I do most earnestly hope and trust that those gentlemen who have erred

on this occasion, though without any bad intention, will bethink them of the cruelty committed by such conduct, and of the deep injury they may inflict on society by doing that which has a tendency to pollute and corrupt the fountains of public justice. I shall, for the reasons I have stated, adjourn this Commission to Tuesday, the 6th of January, at eight o'clock in the morning, and I wish it to be distinctly understood that I shall listen to no farther application for delay, unless arising out of new matter.

APPENDIX V.

SPECIMENS OF THE BROADSIDE BALLADS.

THE LIFE, TRIALS (*sic*), AND EXECUTION OF

JOHN THURTELL

(Six crude woodcuts, some prose, and the following verses:—)

A WARNING FROM THE TOMB, OR J. THURTELL'S CAUTION TO THE YOUTH OF GREAT BRITAIN.

Give ear, young men, whose heedless course
  Fast to destruction run,
And learn by this, my humble verse,
  The snares of guilt to shun.
'Twas that which worked my downfall,
  And on my dying day,
I here intreat you ne'er to go
  From honour's paths astray.

John Thurtell is my lawful name,
  On it I've brought disgrace,
Of goodly parentage I came,
  Norwich their dwelling-place.
No living soul could lay one charge
  To hurt their honest fame,
Till I, their wretched son, have ting'd
  Their aged cheeks with shame.

I might have been a prosperous man,
  Had I been well inclin'd,
But Pleasure did my soul trepan,
  And did my senses blind.

It spurred me on from time to time,
To riot, cheat, and lie,
And now it's left me in my prime,
Upon a tree to die.

O could I raise my feeble voice
Like to a trumpet high,
I'd warn the youth of Britain's Isle
From gambling to fly.
For if that vice your heart trepan,
Adieu to all that's good . . .
'Twas it that caused my sinful hands
To shed my own friend's blood.

Fare well, my father, good and kind,
Such fathers are but few;
Too late I do my folly find,
In not obeying you;
Forgive me for the deep disgrace,
Your blessings let me crave,
Although your grey hairs will go down
In sorrow to the grave.

Farewell, my tender mother, bless'd
And honour'd may you be,
Who nurs'd me kindly at your breast,
And danc'd me on your knee.
O many mothers have been dear,
But thou excell'd them all;
The thoughts of thee call forth my tears,
And make them fast to fall.

'Tis past, 'tis gone . . . my glass is run . . .
Now is the dreadful hour,
With fortitude to meet my doom,
Assist me heavenly Power.
Behold me now, ye sons of vice!
See what I now endure;
And turn you from your evil ways,
Lest my hard fate be yours.

Hark! 'tis the voice of murdered Weare,
He calleth from the tomb . . .
"Forsake your sins, the hour draws near
That calls you to your home."
And all who my sad fate doth read,
This lesson learn from me . . .
According to the lives you lead
You will rewarded be.

Appendix V.

THE HERTFORDSHIRE TRAGEDY; OR, THE FATAL EFFECTS OF GAMBLING.

Exemplified in the Murder of Mr. Weare and the Execution of John Thurtell.

(Ten woodcuts, including two portraits, a short introduction, and the following ballads, printed and sold, wholesale and retail, by J. Catnach, 2 Monmouth Court, Seven Dials.)

THE HERTFORDSHIRE TRAGEDY.

PART FIRST.

In Norwich town there dwells a man
  Of fair and honest fame,
A just and upright man is he,
  And Thurtell is his name.
His wife, a virtuous dame, to him
  Did many children bear,
And for to rear them virtuously,
  It was his constant care.

A favourite son the mother had,
  John was his name, we héar,
The sight of him her heart did glad,
  She loved him so dear.
And when he grew to man's estate,
  And thought his home he'd leave,
His mother mourned soon and late,
  And did most sorely grieve.

And when the day arriv'd that he
  From Norwich must depart,
His mother clasp'd him in her arms,
  And press'd him to her heart.
"God speed thee, my dear son," she cried,
  While tears bedew'd her cheek,
And while he press'd his mother's hand,
  For grief he scarce could speak.

Now, when in town he did arrive,
  Like many a gay young man,
He mix'd with thoughtless company,
  Which thousands has trepan'd.
He soon forgot his mother dear,
  And all his friends behind,
And sought for pleasures everywhere,
  Where'er he could it find.

From bad to worse he did proceed,
'Mid scenes of guilt and vice,
Until he learn'd the cursed art,
To play with cards and dice.
And from that fatal, fatal day,
His ruin we may date,
Nor were his eyes e'er open'd,
Until it was too late.

Among his gay companions,
There was a Mr. Weare,
And he did win three hundred pounds
From Thurtell, as we hear.
This did so work upon his mind . . .
He swore reveng'd to be—
And how he did perform the same,
You very soon shall see.

PART SECOND.

A man named Probert had a cot
In Hertfordshire hard by,
Most dark and gloomy was the spot,
And few e'er passed by.
Thurtell to him his mind disclos'd,
And Joseph Hunt also,
The plan he'd laid to murder Weare,
And make his heart's blood flow.

Soon after, a few days or so,
Thurtell met with Weare,
And kindly press'd on him to go
With him to Hertfordshire—
Saying, "Probert has a pleasant cot,
It stands near Gill's Hill Lane,
And as you are a lucky shot,
You'll there find plenty game."

'Twas on a bright October night,
The moon was shining clear,
When Thurtell he set off from town,
Accompanied by Weare.
When they had reached Gill's Hill Lane,
That dark and dismal place,
Thurtell drew a pistol forth,
And fir'd it in Weare's face.

Appendix V.

The helpless man sprung from the gig,
And strove the road to gain,
But Thurtell pounc'd on him, and dash'd
His pistol through his brains.
Then pulling out his murderous knife,
As over him he stood,
He cut his throat, and, tiger-like,
Did drink his reeking blood.

Methinks the moon withdrew her light,
Affrighted to behold,
And through the curtains of the night,
Pity cry'd, "Hold! hold!"
But no remorse did Thurtell feel,
Revenge and thirst of gain,
He'd sear'd his heart as hard as steel,
And Pity wept in vain.

The mangled corpse he then conceal'd,
And to the cottage came,
Where he the horrid tale reveal'd,
How he poor Weare had slain.
Although his hands were warm with blood,
He down to supper sat,
And pass'd the time in merry mood,
With drink and songs and chat.

Part Third.

Soon as the morning sun appear'd
Two labourers did espy
A small penknife with blood besmear'd,
Which on the grass did lie;
Also a pistol on the ground,
Cover'd with human brains,
And all the wither'd leaves around
With drops of blood were stain'd.

Amaz'd and frighten'd at the sight,
They said, "We sadly fear
A deed of horror yesternight
Has been committed here."
And soon this thing was nois'd about,
And reach'd the magistrates,
Who, sending for the labourers,
They did the whole relate.

Thurtell and Hunt.

The Lord declar'd, "Thou shalt not kill"
(From Sinai's flaming head),
"For whoso'er man's blood doth spill,
By man shall his be shed."
Vain is the thought for cruel men,
To think from HIM to fly,
Where could they go? Where could they run
From HIS all-seeing eye?

What tho' the murderer whets his knife
The innocent to slay;
GOD sees as well in darkest night
As in the shining day,
And though conceal'd in caverns deep,
Hid from all human sight,
HIS power could make the dead to speak
To bring such deeds to light.

And thus the LORD'S avenging hand
Did so make things fall out,
That Thurtell, Hunt, and Probert were
Suspected without doubt;
To prison they were sent with speed,
Where Hunt made speedily
A full confession of this deed,
And where the corpse did lie.

To Elstree he did them conduct,
Where stands a marshy pond,
And there concealed in a sack
The body it was found.
To Elstree's church it was convey'd,
And in the dead of night,
Within the silent grave was laid,
Most solemn was the sight.

PART FOURTH.

But Thurtell he denied the crime,
And stoutly did maintain
That neither judge nor jury could
Convict him of the same.
But all his boasting prov'd in vain,
His guilt appear'd so clear,
That none a doubt could entertain
But that he murder'd Weare.

Appendix V.

For Probert did a scene unfold
  Of such iniquity
As made the hearers' blood run cold,
  To think such things could be.
The jury soon pronounc'd his guilt,
  And then by law's decree
He by the judge was sentenced
  To hang upon a tree.

The Judge's Speech.

Employ, said he, the few short hours
  Allotted you to live,
To seek forgiveness from that Power
  Which can alone forgive;
Before your Maker's awful face
  You shortly must appear,
Oh, then, implore His sovereign grace,
  Your contrite prayer to hear.

Seek, saith the Lord, and ye shall find,
  Ask ye and I will give;
O taste and see, the Lord is kind,
  And wouldst that all should live.
Short is your time—the hour is nigh
  When you from hence must go;
Then seek that mercy from on high
  You cannot have below.

On Friday, January nine,
  Thurtell was convey'd
Unto the fatal drop, and there
  His forfeit life he paid.

The Moral.

Thus have ye heard, my youthful friends,
  This horrid tragedy,
And here ye see the dreaded end
  Of those who murderers be;
And if ye take the good advice
  Which now to you is told,
Account the gift of greater price
  Than if I gave you gold.

Thurtell and Hunt.

Keep from the haunts of wicked men,
  Refrain from cards and dice,
For thereby cometh strife and sin,
  And murders doth arise.
Abhor revenge in any case,
  From lustful passions fly;
And always have before your face
  That you are born to die.

Remember in thy youthful days
  Thy Maker to obey,
So He will not forget thee
  When that thy hairs are grey.
Thus will He bless ye more and more,
  And all shall prosper well,
To Him be praise for evermore,
  Now, reader, fare ye well.

[Contains also "Thurtell's Caution," as separately printed.]

THE BALLAD COMPOSED BY WILLIAM WEBB, ACROBAT, LINKBOY, AND AFTERWARDS TRANSPORTED CONVICT.

Air—"There's nae luck aboot the hoose."

[I have never seen an original of this famous ballad. There seems to be a *lacuna* between stanzas three and four in the version below.—E.R.W.]

They asked him down from London town
  A-shooting for to go,
But little did the gem'man think
  As they would shoot him too.

So Ruthven went, from Bow Street sent,
  Searching the country over,
Until he pitched into Joe Hunt,
  John Thurtell, and Bill Probert.

His throat they cut from ear to ear,
  His brains they punched in;
His name was Mr. William Weare,
  Wot lived in Lyon's Inn.

* * * * * *

Appendix V.

Confined he was in Hertford Jail,
A jury did him try,
And worthy Mr. Justice Park
Condemned him for to die.

Now, Mr. Andrews he did strive,
And Mr. Chitty too,
To save the wicked wretch alive,
But no! it would not do.

Upon the gallows tree he hung,
Suspended by the neck.
This fatal story we have sung,
Foul murder for to check.

[See *Sporting Review*, ii. (1839), and *Notes and Queries*, 11th sec., iv., 249, 394, 458; and the *Standard*, March, 1903, *passim*.]

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The series of volumes devoted to the examination of the issues involved in famous trials which Messrs. William Hodge & Co., Ltd., are publishing, possesses two claims for distinction. First, on account of the dramatic interest which arrests the attention of the ordinary reader as some revelation of the darker side of human nature is unfolded; secondly for the discussion of the legal decisions, which have a special claim on the law student on account of their completeness and accuracy. —*Liverpool Daily Post.*

The Trial of Captain Porteous. (1736.) Edited by WILLIAM ROUGHEAD, W.S., Edinburgh. Dedicated to the Hon. LORD ARDWALL.

The trial of Captain John Porteous, "a name memorable in the traditions of Edinburgh as well as in the records of criminal jurisprudence" (Sir Walter Scott), took place in July, 1736, and in view of the strange and far-reaching events by which it was attended is certainly one of the most remarkable that ever came before the High Court of Justiciary. The editor has been fortunate enough to find in the British Museum and Public Record Office much unpublished material, throwing light upon what Professor Hume Brown, in his *History of Scotland*, describes as "one of the most dramatic incidents in the national history." Much new matter has also been obtained from the Records of Edinburgh Town Council and other original MSS.

The Annesley Case. (1743.) Edited by ANDREW LANG.

The Annesley Case, in which James Annesley claimed to be the legitimate heir of Arthur, third Lord Altham, was tried in Ireland in November, 1743. The claimant, James Annesley, if his story be true, enjoyed a life of adventure and romance that is seldom met with outside the pages of fiction. His early years were none too happy, and on the death of his father, Lord Altham, he was destitute of all friends and depended upon the charity of others for his livelihood. The Earl of Anglesey, the defendant in the case, then came forward and claimed the title of Lord Altham, as brother and heir to the deceased lord, upon the supposition that the late lord had died without male issue. About four months after the death of the late Lord Altham, James Annesley was, through the instrumentality of the Earl of Anglesey, kidnapped, sent to America, and there sold for a common slave. He remained in this condition for a number of years until the story of his unfortunate life reached the ears of those who helped him to return once more to Great Britain, and there his case was taken up with such vigour as to enable him to obtain a verdict in his favour at the hands of the judges and jury before whom the case was tried.

The Trial of Lord Lovat. (1747.) Edited by DAVID N. MACKAY, Writer, Glasgow, Dedicated to the Right Hon. DONALD JAMES, LORD REAY.

Lord Lovat's trial in 1747 and his condemnation to death for treason marked the close of an epoch in Scottish history, the end of the clan period in the Highlands. When a hundred and seventeen peers answered, with weary monotony, "Guilty, upon my honour," the public career of the last Scottish clan dictator came to an end. Thenceforward the name "chief" was to be a thing of polite conceit, except when the bearer had other claims to respect. Till then clan feeling had been a matter of vital importance, now it was to become one of the sentiments.

The Trial of Mary Blandy. (1752.) Edited by WILLIAM ROUGHEAD, W.S., Edinburgh. Dedicated to LORD DUNSANY.

The heroine of this eighteenth century *cause célèbre* was convicted at Oxford Assizes in 1752 for the murder of her father at Henley by poisoning him with arsenic. Her defence was that she gave him the drug believing it to be a love philtre, with the view of making him "kind" to her lover, Captain Cranstoun, and removing his opposition to their marriage. Cranstoun escaped and died abroad, leaving the partner of his crime to pay the penalty. The introduction gives from contemporary sources a full account of the whole circumstances, which afford a graphic view of eighteenth century life and manners. The official report of the trial is reprinted verbatim, the appendices contain much new and unpublished material from the British Museum and Record Office, &c., and the illustrations include reproductions of all the known portraits of Mary Blandy.

The Trial of James Stewart (The Appin Murder). (1752.) Edited by DAVID N. MACKAY, Writer, Glasgow. Dedicated to ALEXANDER CAMPBELL FRASER.

The outlines of the story of James Stewart's life in Duror of Appin are familiar to all students of Scottish history and of those

splendid romances by Robert Louis Stevenson—"Kidnapped" and "Catriona." In view of the importance and interest of the case, the publishers have included in this edition a full reprint of the evidence and speeches so far as available, prefaced by a carefully written introduction, and followed by biographical and other appendices which will enable the reader to realise the political and local surroundings of the story.

Eugene Aram: His Life and Trial. (1759.) By Eric R. Watson, LL.B., Barrister-at-Law.

In the year 1744-45 Daniel Clark was murdered at Knaresborough. In 1758 his bones were found and Eugene Aram arrested. In the following year he was tried and condemned for the murder. Bulwer's famous novel and Tom Hood's poem have kept this mystery alive, but it has remained for the present volume to present this famous case in its true light.

The Douglas Cause. (1761-1769.) Edited by A. Francis Steuart, Advocate. Dedicated to the Hon. Lord Guthrie.

The "Douglas Cause" is probably the greatest civil trial affecting *status* that Scotland will ever know, and no trial of its time created so great a sensation or aroused so much popular feeling. The Cause lasted in all for eight years. In 1761 Archibald Steuart or Douglas was served heir, as nephew, of the late Duke of Douglas. This service was at once challenged by the tutors of the Duke's heir male, the young Duke of Hamilton, who alleged that Archibald Douglas had no right to the Douglas estates, being a supposititious child. The legal proceedings came to their first halt in 1767, when the Court of Session—the fourteen judges of which were equally divided—gave, by the vote of the Lord President only, their judgment against the popular hero, young Douglas. He appealed to the House of Lords, and in 1769 had the satisfaction of being replaced in his position as heir to the Duke of Douglas, though not without the protest of five peers.

The Trial of Deacon Brodie. (1788.) Edited by William Roughead, W.S., Edinburgh. Dedicated to the Hon. Lord Dundas.

The trial of William Brodie for breaking into and robbing the General Excise Office for Scotland took place on 27th and 28th August, 1788. No more picturesque and striking figure than Deacon Brodie ever appeared at the bar of the High Court of Justiciary, and the story of his strange career, as unfolded in the course of the trial, is as enthralling as any romance. The double life which he so long and successfully led—as a respected citizen and town councillor by day, and by night the captain of a band of housebreakers—was the wonder of the Edinburgh of his time, and is still remembered as a triumph of skilful duplicity. His fame has acquired fresh lustre from the interest which his character aroused in Robert Louis Stevenson, who embodied Deacon Brodie in a play and owed to him the original conception of *Dr. Jekyll and Mr. Hyde.*

The Trial of Thurtell and Hunt. (1824.) Edited by Eric R. Watson, LL.B., Barrister-at-Law. Dedicated to Sir Harry B. Poland.

The trial of Thurtell and Hunt at Hertford Assizes on 6th January, 1824, before Mr. Justice Park, for the murder of Mr. Weare in Gill's Hill Lane, near Elstree, is probably now best remembered by the familiar lines which contain a succinct account of the tragedy:—

His throat they cut from ear to ear,
His brains they battered in;
His name was Mr. William Weare,
He lived in Lyon's Inn.

But, in its day, it was the subject of universal interest, and Sir Walter Scott himself visited the scene of the crime. The present volume gives, for the first time, a full account of the whole circumstances of the murder, together with a verbatim report of the legal proceedings, which resulted in the conviction of both prisoners. It is illustrated with many rare portraits of the persons concerned, views of the locus, &c., and forms a complete and authentic report of one of our most famous criminal cases.

The Trial of William Palmer. (1856.) Edited by GEORGE H. KNOTT, Barrister-at-Law. Dedicated to Sir HARRY B. POLAND.

The trial of William Palmer, which took place in May, 1856, was, in the opinion of Sir James Stephen, the eminent jurist, one of the greatest trials in the history of English law. The events which led up to the trial occurred in November, 1855, at Rugeley, in Staffordshire, where Palmer, who was about thirty-one years of age, had been a medical practitioner until two or three years previously. Mr. John Parsons Cook, whom Palmer was charged with poisoning, was a young man of about twenty-eight, who had been articled as a solicitor, but he inherited some £12,000 and did not follow his profession. He also went on the turf, kept racehorses, and betted, and it was in this common pursuit that Palmer and Cook became acquainted. Three judges were appointed to try the case: a very rare occurrence in England. The bar on each side was exceedingly strong, and during the course of the trial some of the most celebrated chemists and physicians were called upon to testify either for or against the prisoner. In the end Palmer was found guilty of the crime charged against him and suffered the last penalty of the law.

The Trial of Madeleine Smith. (1857.) Edited by A. DUNCAN SMITH, F.S.A.(Scot.), Advocate. Dedicated to the Hon. LORD YOUNG.

Madeleine Smith, the daughter of a well-known and respected citizen of Glasgow, was tried at Edinburgh in June, 1857, for the murder of Pierre Emile L'Angelier. When still young Miss Smith made the acquaintance of L'Angelier, who was a clerk in a Glasgow warehouse and much below her in social station. From the first their association was of a clandestine nature; meetings and interviews became frequent, and when these were found impracticable, affectionately worded missives were exchanged. On her becoming engaged to a gentleman in her own station of life Miss Smith endeavoured to get back from L'Angelier the compromising letters she had written him, but without success. At the trial of Miss Smith which followed the sudden death of L'Angelier the case for the Crown was that death was due to arsenical poisoning, and that on several occasions Miss Smith had supplied L'Angelier with cocoa or coffee poisoned with arsenic.

The Trial of Mrs. M'Lachlan. (1862.) Edited by WILLIAM ROUGHEAD, W.S., Edinburgh. Dedicated to ANDREW LANG.

This case created an enormous sensation in its day, and is still remembered by its once famous name of "The Sandyford Mystery." After the prisoner had been convicted of the murder of her friend and fellow-servant, Jessie M'Pherson, the Government took the unusual step of appointing a Crown Commissioner to take fresh evidence to test the truth of a statement the prisoner had made after the verdict of guilty had been returned against her, with the result that the sentence of death was commuted to penal servitude. The action of the Government was the subject of lengthy debates in the House of Commons. The dramatic scene in which the convicted woman in the dock denounced the chief witness for the Crown as the actual murderer is unparalleled in the records of criminal trials. As an example of the dangers of circumstantial evidence, as well as for its intrinsic interest, this case is unique: the late Mr. H. B. Irving described it as "the best murder trial he had ever read."

The Trial of Franz Muller. (1864.) Edited by H. B. IRVING, M.A.(Oxon.) Dedicated to LORD HALSBURY.

On the night of Saturday, the 9th of July, 1864, a suburban train on the North London Railway arrived at Hackney about ten minutes past ten o'clock. A passenger who was about to enter a compartment noticed it was covered with blood, and in the carriage a hat, stick, and bag were found. About twenty minutes past ten on the same night a driver of a train noticed the body of a man lying on the six-foot way between Hackney Wick and Bow stations. The unfortunate man was still alive but his skull had been fractured, and late the following night he expired from his injuries. Great public indignation was aroused by the crime, and the inquiries which followed resulted in suspicion falling upon a man named Müller who was found to have left London for America. He was followed by two detectives and subsequently arrested on board the "Victoria" when it arrived in New York harbour. An eminent array of counsel were engaged in the case, and after a four days' trial Müller was found guilty and sentenced to death. Müller suffered the last penalty of the law on the 14th November, 1864.

The Trial of Dr. Pritchard. (1865.) Edited by WILLIAM ROUGHEAD, W.S., Edinburgh. Dedicated to Sir DAVID BRAND.

Dr. Pritchard was a well-known medical practitioner in Glasgow, where he resided with his wife and family. He was charged with the double murder of his wife and mother-in-law by poisoning them. After a trial which lasted five days and abounded in sensational incidents, Pritchard was found guilty, and was executed on 28th July, 1865, this being the last public execution in Scotland. The amazing hypocrisy of Dr. Pritchard affords a psychological study of high interest. Seldom has a more cruel and crafty miscreant graced the gallows. The sensational evidence of Dr. Paterson, who had seen the victims when alive and believed that they were being poisoned, yet maintained that it would have been contrary to medical etiquette for him to have interfered to save their lives, was one of the features of the trial.

The Trial of the Wainwrights. (1875.) Edited by H. B. IRVING, M.A.(Oxon.) With an Appreciation of the Editor by Sir EDWARD MARSHALL HALL, K.C.

The trial of the Wainwright brothers for the murder of Harriet Lane was one of the most notorious cases of the early seventies. It was tried at the Central Criminal Court, London, before Lord Chief Justice Cockburn on 22nd November, 1875, and resulted in the conviction of both prisoners. Henry Wainwright, a married man with a family, had long led a double life, and when his affairs became embarrassed he determined to rid himself of his mistress, Harriet Lane, who was pressing him for money. His brother, Thomas, under the assumed name of Frieake, pretended that he was going to provide for her. On 11th September, 1874, she left her lodgings and was never seen again alive. To her relatives Wainwright said that she had gone off with "Frieake." Exactly twelve months afterwards Wainwright was apprehended in the act of transferring from a cab to his brother's business premises two parcels which were found to contain the dismembered body of a female. At his own place of business in Whitechapel Road a grave was found in which the remains had been buried for a year. The murder was committed with a revolver, the three shots from which had been heard by workmen in an adjoining yard. But for

Wainwright's folly in leaving the parcels in the custody of an innocent third party while he himself went in search of a cab, it is probable that the crime would have remained a mystery. The defence denied the identity of the body with that of the missing woman; but the facts were too strong for them, and Henry was sentenced to death, Thomas to seven years' penal servitude.

The Trial of The Stauntons. (1877.) Edited by J. B. Atlay, M.A., F.S.A., Barrister-at-Law. Dedicated to Sir Edward Clarke, K.C.

The case of the Stauntons, or, as it was more generally known, the Penge mystery, will always rank among the English *causes célèbres* of the last century. It aroused at the time an amount of excitement and interest among all classes of the community for which it would be hard to find a parallel. The case was tried in September of 1877 at the Old Bailey before Sir Henry Hawkins, recently appointed to the bench, and lasted for a week. There were four prisoners on trial, Louis Staunton, his brother, Patrick Staunton, Mrs. Patrick Staunton, and Alice Rhodes, a sister of Mrs. Patrick Staunton. They were charged with the murder of Mrs. Louis Staunton by starvation and were all found guilty and sentenced to death. Strong representations, however, were made to the Home Secretary by the leaders of the medical profession in favour of the hypothesis of natural disease and the prisoners were reprieved, though only on the day before the date fixed for their execution. Alice Rhodes, against whom there was practically no evidence of anything but adultery, was at once released; the Stauntons were sent to long terms of penal servitude.

The Trial of Eugene Marie Chantrelle. (1878.) Edited by A. Duncan Smith, F.S.A. (Scot.) Dedicated to Sir Henry D. Littlejohn, M.D., LL.D.

The trial of Eugene Marie Chantrelle, for the murder of his wife by poison, occupies a conspicuous position in the annals of Scottish criminal jurisprudence. The evidence in the case was almost entirely circumstantial, and it undoubtedly derived its force from a continuous series of particulars, any one of which, in itself, would have justified no more than a mere suspicion against the accused. Mr. Aitken Ransome in an article in the

Bookman said: "Although nothing is written in the way sensational novelists believe it necessary to write in order to produce curiosity and excitement, no book for a long time has so detained me against my will. And why? Simply because its form is the best conceivable for the development of a single sensation and the gradual scientific exposition of an extraordinary type of mind."

The Trial of the City of Glasgow Bank Directors. (1879.) Edited by William Wallace, Advocate.

The trial of the City Bank Directors ranks in the estimation at least of the layman, if not of the professional lawyer, as probably the most important which has taken place in Scotland. The magnitude of the financial crisis brought about by the collapse of the Bank, the social standing of the Directors to whose hands the management of it was entrusted, the startling nature of the evidence adduced by the prosecution, all combined to invest the trial with an interest which is not surpassed in the annals of our criminal jurisprudence.

The Trial of Dr. Lamson. (1882.) Edited by Hargrave L. Adam. Dedicated to Sir Charles Mathews.

Dr. Lamson was tried in the year 1882 for the murder of his nephew, Percy Malcolm John. This is one of the few cases recorded where the poison used was aconitine. John, although nineteen years of age, was at school when the poison was administered to him, the motive for the murder being some small property which he had, and which would partly revert to Dr. Lamson on his death. The trial took place before Mr. Justice Hawkins, and Lamson was found guilty. Although great pressure was brought to bear, especially from America, to obtain a commutation of the sentence, he was eventually hanged.

The Trial of Mrs. Maybrick. (1889.) Edited by H. B. Irving, M.A.(Oxon.) Dedicated to the Hon. Sir William Pickford.

James Maybrick, a Liverpool cotton broker, died at his residence, Battlecrease House, Aigburth, on Saturday, the 11th of

May, 1889, under mysterious circumstances. He was fifty years old at the time of his death. A suspicion had arisen in the minds of some of those attending on Mr. Maybrick during his illness that his wife was attempting to poison him. She was arrested after his death, and tried for his murder at the Liverpool Assizes. She was convicted, and sentenced to death on the 7th of August, 1889. On the 22nd of August this sentence was commuted by the Home Secretary to one of penal servitude for life. Mrs. Maybrick served fifteen years of imprisonment, and was released on the 25th of January, 1904. The justice of Mrs. Maybrick's conviction was gravely questioned at the time, and has been the subject of criticism ever since.

The Trial of A. J. Monson. (1893.) Edited by JOHN W. MORE, B.A.(Oxon.), Advocate. Dedicated to the LORD JUSTICE-CLERK (Sir J. H. A. MACDONALD).

The trial of Alfred John Monson on the double charge of attempting to murder and of murdering Windsor Dudley Cecil Hambrough, at Ardlamont, Argyllshire, may be placed in the list of Scottish trials as the most important which has taken place since that of Madeleine Smith. The circumstances of the alleged crime, the place where it occurred, and the social position of the accused and his alleged victim, were of such a kind as to at once arrest attention and to make people look with interested eyes to the High Court of Justiciary in Edinburgh, where, on 12th December, 1893, the prosecution and the defence began their efforts, extending over ten long days, to get at the heart of the mystery.

The Trial of Oscar Slater. (1909.) Edited by WILLIAM ROUGHEAD, W.S., Edinburgh. Dedicated to the Hon. LORD GUTHRIE.

The case of Oscar Slater, who was tried in May, 1909, for the murder of Miss Marion Gilchrist, excited widespread interest at the time, and, by reason of the sensational rumours of which it was the occasion, exercised the popular imagination for many months. But apart from these, the case itself contains elements sufficiently strange and suggestive to supply, in an unwonted degree, a legitimate and lasting interest. The trial at Edinburgh; the obvious weakness of certain links in the formidable chain forged by the Crown; the surprising verdict; and, finally, the

illogical and unsatisfactory reprieve, combined to merit for this case a conspicuous niche in the gallery of Scottish *causes célèbres*. Sir Arthur Conan Doyle's ineffectual efforts to prove this convict's innocence will be remembered. The full text of the evidence taken before the Sheriff at the Crown inquiry, subsequent to the trial, is here given.

The Trial of Hawley Harvey Crippen. (1910.) Edited by Filson Young. Dedicated to Sir Basil Horne Thomson, C.B.

No trial of modern times was more widely known and discussed than that of "Dr." Crippen for the murder of his wife, and few cases are richer in the human and dramatic interest which constitutes the chief appeal of a great crime. The character of the criminal and his passion for his mistress; the contrasted types of the two women, the one the victim of his hate, the other of his love; the unusual method of the murder; the sensational flight of Crippen and Le Neve and their subsequent arrest at sea; and the later disclosures of the trial at the Old Bailey; combine to give to this case its unique attraction and a place by itself in the catalogue of crime. The Editor's Introduction does full justice to this remarkable material, and affords a psychological study of high value to the criminologist, while for the casual reader the charm of his style is as alluring as the interest of his narrative.

The Trial of John Alexander Dickman. (1910.) Edited by S. O. Rowan-Hamilton, Barrister-at-Law. Dedicated to Lord Coleridge.

The crime with which John Alexander Dickman was charged at Newcastle Assizes in July, 1910, was the sixth murder committed in a railway carriage since the introduction of railways into England. He was convicted, upon purely circumstantial evidence, of the murder, in a train near Morpeth, of John Innes Nisbet who was carrying a bag containing £370 to pay wages at a colliery. The identification of the prisoner was far from conclusive, and the unsatisfactory account of his conduct and movements which he gave in the box was mainly accountable for the verdict. The case is a remarkable example of the operation of the Criminal Evidence Act of 1898. The full text of the trial is printed, including the cross-examination of the prisoner which virtually sealed his fate, and the introduction contains a complete history of the case and of the many interesting and important points to which it gave rise.

The Trial of the Seddons. (1912.) Edited by FILSON YOUNG. Dedicated to Sir EDWARD MARSHALL HALL, K.C.

The trial of Mr. and Mrs. Seddon in 1912 for the murder of Miss Barrow, their wealthy lodger, forms an important commentary on the value and effect of purely circumstantial evidence. The wife was acquitted; the husband was found guilty, and was duly executed. The victim died from the effects of arsenic, but possession of that poison was not brought home to the prisoners, nor was there any evidence of administration. Seddon was probably convicted as the result of his appearance in the witness box, and the case is an instructive illustration of the working of the Criminal Evidence Act. The full text of the trial is given, including the speeches of the Attorney-General (Sir Rufus Isaacs) for the Prosecution and of Mr. Marshall Hall for the Defence, and in the introduction the main features of the case are focussed in a way which shows that criminology, handled by a man of letters, can be made interesting to a far larger public than the legal fraternity affords.

The Trial of Sir Roger Casement. (1916.) Edited by GEORGE H. KNOTT, Barrister-at-Law. Dedicated to the LORD CHIEF JUSTICE and the Hon. Mr. JUSTICE DARLING.

Though the trial of Casement for High Treason in the High Court of Justice in 1916 was but one of the minor sensations of the Great War, yet its intrinsic interest and historical importance well warrant this authentic report of the proceedings. Casement, having held divers high appointments under the British Crown, having been knighted for his services and having retired on a pension, upon the outbreak of hostilities proceeded to Germany where he was actively employed in inciting the Irish prisoners of war to join the German arms against England. The frustration of his attempt to run men, arms, and ammuition with a view to raising a rebellion in Ireland reads more like some tale of strange adventure than sober history. A full report of the trial is here given, as well as of the no less important proceedings in the Court of Criminal Appeal, together with many documents and photographs illustrative of the case.

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